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MESSAGE OF THE PRESIDENT OF THE UNITED STATES TO CONGRESS, DECEMBER 8, 1925

MEMBERS OF THE CONGRESS: In meeting the constitutional requirement of informing the Congress upon the state of the Union, it is exceedingly gratifying to report that the general condition is one of progress and prosperity. Here and there are comparatively small and apparently temporary difficulties needing adjustment and improved administrative methods, such as are always to be expected, but in the fundamentals of government and business the results demonstrate that we are going in the right direction. The country does not appear to require radical departures from the policies already adopted so much as it needs a further extension of these policies and the improvement of details. The age of perfection is still in the somewhat distant future, but it is more in danger of being retarded by mistaken Government activity than it is from lack of legislation. We are by far the most likely to accomplish permanent good if we proceed with moderation.

In our country the people are sovereign and independent, and must accept the resulting responsibilities. It is their duty to support themselves and support the Government. That is the business of the Nation, whatever the charity of the Nation may require. The functions which the Congress are to discharge are not those of local government but of National Government. The greatest solicitude should be exercised to prevent any encroachment upon the rights of the States or their various political subdivisions. Local self-government is one of our most precious possessions. It is the greatest contributing factor to the stability, strength, liberty, and progress of the Nation. It ought not to be infringed by assault or undermined by purchase. It ought not to abdicate its power through weakness or resign its authority through favor. It does not at all follow that because abuses exist it is the concern of the Federal Government to attempt their reform.

Society is in much more danger from encumbering the National Government beyond its wisdom to comprehend, or its ability to administer, than from leaving the local communities to bear their own burdens and remedy their own evils. Our local habit and custom is so strong, our variety of race and creed is so great, the Federal authority is so tenuous, that the area within which it can function successfully is very limited. The wiser policy is to leave the locali-

ties, so far as we can, possessed of their own sources of revenue and charged with their own obligations.

GOVERNMENT ECONOMY

It is a fundamental principle of our country that the people are sovereign. While they recognize the undeniable authority of the state, they have established as its instrument a Government of limited powers. They hold inviolate in their own hands the jurisdiction over their own freedom and the ownership of their own property. Neither of these can be impaired except by due process of law. The wealth of our country is not public wealth, but private wealth. It does not belong to the Government, it belongs to the people. The Government has no justification in taking private property except for a public purpose. It is always necessary to keep these principles in mind in the laying of taxes and in the making of appropriations. No right exists to levy on a dollar, or to order the expenditure of a dollar, of the money of the people, except for a necessary public purpose duly authorized by the Constitution. The power over the purse is the power over liberty.

That is the legal limitation within which the Congress can act. How it will proceed within this limitation is always a question of policy. When the country is prosperous and free from debt, when the rate of taxation is low, opportunity exists for assuming new burdens and undertaking new enterprises. Such a condition now prevails only to a limited extent. All proposals for assuming new obligations ought to be postponed, unless they are reproductive capital investments or are such as are absolutely necessary at this time. We still have an enormous debt of over \$20,000,000,000, on which the interest and sinking-fund requirements are \$1,320,000,000. Our appropriations for the Pension Office and the Veterans' Bureau are \$600,000,000. The War and Navy Departments call for \$642,000,000. Other requirements, exclusive of the Post Office, which is virtually self-sustaining, brought the appropriations for the current year up to almost \$3,100,000,000. This shows an expenditure of close to \$30 for every inhabitant of our country. For the average family of five it means a tax, directly or indirectly paid, of about \$150 for national purposes alone. The local tax adds much more. These enormous expenditures ought not to be increased, but through every possible effort they ought to be reduced.

Only one of these great items can be ultimately extinguished. That is the item of our war debt. Already this has been reduced by about \$6,000,000,000, which means an annual saving in interest of close to \$250,000,000. The present interest charge is about \$820,000,000 yearly. It would seem to be obvious that the sooner this

debt can be retired the more the taxpayers will save in interest and the easier it will be to secure funds with which to prosecute needed running expenses, constructions, and improvements. This item of \$820,000,000 for interest is a heavy charge on all the people of the country, and it seems to me that we might well consider whether it is not greatly worth while to dispense with it as early as possible by retiring the principal debt which it is required to serve.

It has always been our policy to retire our debts. That of the Revolutionary War period, notwithstanding the additions made in 1812, was paid by 1835, and the Civil War debt within 23 years. Of the amount already paid, over \$1,000,000,000 is a reduction in cash balances. That source is exhausted. Over one and two-thirds billions of dollars was derived from excess receipts. Tax reduction eliminates that. The sale of surplus war materials has been another element of our income. That is practically finished. With these eliminated, the reduction of the debt has been only about \$500,000,000 each year, not an excessive sum on so large a debt.

Proposals have been made to extend the payment over a period of 62 years. If \$1,000,000,000 is paid at the end of 20 years, the cost to the taxpayers is the principal and, if the interest is $4\frac{1}{4}$ per cent, a total of \$1,850,000,000. If the same sum is paid at the end of 62 years, the cost is \$3,635,000,000, or almost double. Here is another consideration: Compared with its purchasing power in 1913, the dollar we borrowed represented but 52 cents. As the value of our dollar increases, due to the falling prices of commodities, the burden of our debt increases. It has now risen to $63\frac{1}{2}$ cents. The taxpayer will be required to produce nearly twice the amount of commodities to pay his debt if the dollar returns to the 1913 value. The more we pay while prices are high, the easier it will be.

Deflation of government after a war period is slower than deflation of business, where curtailment is either prompt and effective or disaster follows. There is room for further economy in the cost of the Federal Government, but a comparison of current expenditures with pre-war expenditures is not unfavorable to the efficiency with which Government business is now being done. The expenditures of 1916, the last pre-war year, were \$742,000,000, and in 1925 over \$3,500,000,000, or nearly five times as great. If we subtract expenditures for debt retirements and interest, veterans' relief, increase of pensions, and other special outlays, consisting of refunds, trust investments, and like charges, we find that the general expenditures of the Government in 1925 were slightly more than twice as large as in 1916.

As prices in 1925 were approximately 40 per cent higher than in 1916, the cost of the same Government must also have increased.

But the Government is not the same. It is more expensive to collect the much greater revenue necessary and to administer our great debt. We have given enlarged and improved services to agriculture and commerce. Above all, America has grown in population and wealth. Government expenditures must always share in this growth. Taking into account the factors I have mentioned, I believe that present Federal expenses are not far out of line with pre-war expenses. We have nearly accomplished the deflation.

This does not mean that further economies will not come. As we reduce our debt our interest charges decline. There are many details yet to correct. The real improvement, however, must come not from additional curtailment of expenses, but by a more intelligent, more ordered spending. Our economy must be constructive. While we should avoid as far as possible increases in permanent current expenditures, oftentimes a capital outlay like internal improvements will result in actual constructive saving. That is economy in its best sense. It is an avoidance of waste that there may be the means for an outlay to-day which will bring larger returns to-morrow. We should constantly engage in scientific studies of our future requirements and adopt an orderly program for their service. Economy is the method by which we prepare to-day to afford the improvements of to-morrow.

BUDGET

A mere policy of economy without any instrumentalities for putting it into operation would be very ineffective. The Congress has wisely set up the Bureau of the Budget to investigate and inform the President what recommendations he ought to make for current appropriations. This gives a centralized authority where a general and comprehensive understanding can be reached of the sources of income and the most equitable distribution of expenditures. How well it has worked is indicated by the fact that the departmental estimates for 1922, before the budget law, were \$4,068,000,000 while the Budget estimates for 1927 are \$3,156,000,000. This latter figure shows the reductions in departmental estimates for the coming year made possible by the operation of the Budget system that the Congress has provided.

But it is evidently not enough to have care in making appropriations without any restraint upon expenditure. The Congress has provided that check by establishing the office of Comptroller General.

The purpose of maintaining the Budget Director and the Comptroller General is to secure economy and efficiency in Government expenditure. No better method has been devised for the accomplishment of that end. These offices can not be administered in all the various details without making some errors both of fact and of

judgment. But the important consideration remains that these are the instrumentalities of the Congress and that no other plan has ever been adopted which was so successful in promoting economy and efficiency. The Congress has absolute authority over the appropriations and is free to exercise its judgment, as the evidence may warrant, in increasing or decreasing budget recommendations. But it ought to resist every effort to weaken or break down this most beneficial system of supervising appropriations and expenditures. Without it all the claim of economy would be a mere pretense.

TAXATION

The purpose of reducing expenditures is to secure a reduction in taxes. That purpose is about to be realized. With commendable promptness the Ways and Means Committee of the House has undertaken in advance of the meeting of the Congress to frame a revenue act. As the bill has proceeded through the committee it has taken on a nonpartisan character, and both Republicans and Democrats have joined in a measure which embodies many sound principles of tax reform. The bill will correct substantially the economic defects injected into the revenue act of 1924, as well as many which have remained as war-time legacies. In its present form it should provide sufficient revenue for the Government.

The excessive surtaxes have been reduced, estate tax rates are restored to more reasonable figures, with every prospect of withdrawing from the field when the States have had the opportunity to correct the abuses in their own inheritance tax laws, the gift tax and publicity section are to be repealed, many miscellaneous taxes are lowered or abandoned, and the Board of Tax Appeals and the administrative features of the law are improved and strengthened. I approve of the bill in principle. In so far as income-tax exemptions are concerned, it seems to me the committee has gone as far as it is safe to go and somewhat further than I should have gone. Any further extension along these lines would, in my opinion, impair the integrity of our income-tax system.

I am advised that the bill will be through the House by Christmas. For this prompt action the country can thank the good sense of the Ways and Means Committee in framing an economic measure upon economic considerations. If this attitude continues to be reflected through the Congress, the taxpayer will have his relief by the time his March 15th installment of income taxes is due. Nonpartisan effort means certain, quick action. Determination of a revenue law definitely, promptly and solely as a revenue law, is one of the greatest gifts a legislature can bestow upon its constituents. I commend the example of the Ways and Means Committee. If followed, it

will place sound legislation upon the books in time to give the taxpayers the full benefit of tax reduction next year. This means that the bill should reach me prior to March 15.

All these economic results are being sought not to benefit the rich, but to benefit the people. They are for the purpose of encouraging industry in order that employment may be plentiful. They seek to make business good in order that wages may be good. They encourage prosperity in order that poverty may be banished from the home. They seek to lay the foundation which, through increased production, may give the people a more bountiful supply of the necessities of life, afford more leisure for the improvement of the mind, the appreciation of the arts of music and literature, sculpture and painting, and the beneficial enjoyment of outdoor sports and recreation, enlarge the resources which minister to charity and by all these means attempting to strengthen the spiritual life of the Nation.

FOREIGN RELATIONS

The policy of our foreign relations, casting aside any suggestion of force, rests solely on the foundation of peace, good will, and good works. We have sought, in our intercourse with other nations, better understandings through conference and exchange of views as befits beings endowed with reason. The results have been the gradual elimination of disputes, the settlement of controversies, and the establishment of a firmer friendship between America and the rest of the world than has ever existed at any previous time.

The example of this attitude has not been without its influence upon other countries. Acting upon it, an adjustment was made of the difficult problem of reparations. This was the second step toward peace in Europe. It paved the way for the agreements which were drawn up at the Locarno Conference. When ratified, these will represent the third step toward peace. While they do not of themselves provide an economic rehabilitation, which is necessary for the progress of Europe, by strengthening the guaranties of peace they diminish the need for great armaments. If the energy which now goes into military effort is transferred to productive endeavor, it will greatly assist economic progress.

The Locarno agreements were made by the European countries directly interested without any formal intervention of America, although on July 3 I publicly advocated such agreements in an address made in Massachusetts. We have consistently refrained from intervening except when our help has been sought and we have felt it could be effectively given, as in the settlement of reparations and the London Conference. These recent Locarno agreements represent the success of this policy which we have been insisting ought to be adopted,

of having European countries settle their own political problems without involving this country. This beginning seems to demonstrate that this policy is sound. It is exceedingly gratifying to observe this progress, which both in its method and in its result promises so much that is beneficial to the world.

When these agreements are finally adopted, they will provide guaranties of peace that make the present prime reliance upon force in some parts of Europe very much less necessary. The natural corollary to these treaties should be further international contracts for the limitation of armaments. This work was successfully begun at the Washington Conference. Nothing was done at that time concerning land forces because of European objection. Our standing army has been reduced to around 118,000, about the necessary police force for 115,000,000 people. We are not proposing to increase it, nor is it supposable that any foreign country looks with the slightest misapprehension upon our land forces. They do not menace anybody. They are rather a protection to everybody.

The question of disarming upon land is so peculiarly European in its practical aspects that our country would look with particular gratitude upon any action which those countries might take to reduce their own military forces. This is in accordance with our policy of not intervening unless the European powers are unable to agree and make request for our assistance. Whenever they are able to agree of their own accord it is especially gratifying to us, and such agreements may be sure of our sympathetic support.

It seems clear that it is the reduction of armies rather than of navies that is of the first importance to the world at the present time. We shall look with great satisfaction upon that effort and give it our approbation and encouragement. If that can be settled, we may more easily consider further reduction and limitation of naval armaments. For that purpose our country has constantly through its Executive, and through repeated acts of Congress, indicated its willingness to call such a conference. Under congressional sanction it would seem to be wise to participate in any conference of the great powers for naval limitation of armament proposed upon such conditions that it would hold a fair promise of being effective. The general policy of our country is for disarmament, and it ought not to hesitate to adopt any practical plan that might reasonably be expected to succeed. But it would not care to attend a conference which from its location or constituency would in all probability prove futile.

In the further pursuit of strengthening the bonds of peace and good will we have joined with other nations in an international conference held at Geneva and signed an agreement which will be laid before the Senate for ratification providing suitable measures

for control and for publicity in international trade in arms, ammunition, and implements of war, and also executed a protocol providing for a prohibition of the use of poison gas in war, in accordance with the principals of Article 5 of the treaty relating thereto signed at the Washington Conference. We are supporting the Pan American efforts that are being made toward the codification of international law, and looking with sympathy on the investigations being conducted under philanthropic auspices of the proposal to make agreements outlawing war. In accordance with promises made at the Washington Conference, we have urged the calling of and are now represented at the Chinese Customs Conference and on the Commission on Extraterritoriality, where it will be our policy so far as possible to meet the aspirations of China in all ways consistent with the interests of the countries involved.

COURT OF INTERNATIONAL JUSTICE

Pending before the Senate for nearly three years is the proposal to adhere to the protocol establishing the Permanent Court of International Justice. A well-established line of precedents mark America's effort to effect the establishment of a court of this nature. We took a leading part in laying the foundation on which it rests in the establishment of The Hague Court of Arbitration. It is that tribunal which nominates the judges who are elected by the Council and Assembly of the League of Nations.

The proposal submitted to the Senate was made dependent upon four conditions, the first of which is that by supporting the court we do not assume any obligations under the league; second, that we may participate upon an equality with other States in the election of judges; third, that the Congress shall determine what part of the expenses we shall bear; fourth, that the statute creating the court shall not be amended without our consent; and to these I have proposed an additional condition to the effect that we are not to be bound by advisory opinions rendered without our consent.

The court appears to be independent of the league. It is true the judges are elected by the Assembly and Council, but they are nominated by the Court of Arbitration, which we assisted to create and of which we are a part. The court was created by a statute, so-called, which is really a treaty made among some forty-eight different countries, that might properly be called a constitution of the court. This statute provides a method by which the judges are chosen, so that when the Court of Arbitration nominates them and the Assembly and Council of the League elect them, they are not acting as instruments of the Court of Arbitration or instruments of the league, but as instruments of the statute.

This will be even more apparent if our representatives sit with the members of the council and assembly in electing the judges. It is true they are paid through the league though not by the league, but by the countries which are members of the league and by our country if we accept the protocol. The judges are paid by the league only in the same sense that it could be said United States judges are paid by the Congress. The court derives all its authority from the statute and is so completely independent of the league that it could go on functioning if the league were disbanded, at least until the terms of the judges expired.

The most careful provisions are made in the statute as to the qualifications of judges. Those who make the nominations are recommended to consult with their highest court of justice, their law schools and academies. The judges must be persons of high moral character, qualified to hold the highest judicial offices in that country, or be jurisconsults of recognized competence in international law. It must be assumed that these requirements will continue to be carefully met, and with America joining the countries already concerned it is difficult to comprehend how human ingenuity could better provide for the establishment of a court which would maintain its independence. It has to be recognized that independence is to a considerable extent a matter of ability, character, and personality. Some effort was made in the early beginnings to interfere with the independence of our Supreme Court. It did not succeed because of the quality of the men who made up that tribunal.

It does not seem that the authority to give advisory opinions interferes with the independence of the court. Advisory opinions in and of themselves are not harmful, but may be used in such a way as to be very beneficial because they undertake to prevent injury rather than merely afford a remedy after the injury has been done. As a principle that only implies that the court shall function when proper application is made to it. Deciding the question involved upon issues submitted for an advisory opinion does not differ materially from deciding the question involved upon issues submitted by contending parties. Up to the present time the court has given an advisory opinion when it judged it had jurisdiction, and refused to give one when it judged it did not have jurisdiction. Nothing in the work of the court has yet been an indication that this is an impairment of its independence or that its practice differs materially from the giving of like opinions under the authority of the constitutions of several of our States.

No provision of the statute seems to me to give this court any authority to be a political rather than a judicial court. We have brought cases in this country before our courts which, when they have been adjudged to be political, have been thereby dismissed.

It is not probable that political questions will be submitted to this court, but again up to the present time the court has refused to pass on political questions and our support would undoubtedly have a tendency to strengthen it in that refusal.

We are not proposing to subject ourselves to any compulsory jurisdiction. If we support the court, we can never be obliged to submit any case which involves our interests for its decision. Our appearance before it would always be voluntary, for the purpose of presenting a case which we had agreed might be presented. There is no more danger that others might bring cases before the court involving our interests which we did not wish to have brought, after we have adhered, and probably not so much, than there would be of bringing such cases if we do not adhere. I think that we would have the same legal or moral right to disregard such a finding in the one case that we would in the other.

If we are going to support any court, it will not be one that we have set up alone or which reflects only our ideals. Other nations have their customs and their institutions, their thoughts and their methods of life. If a court is going to be international, its composition will have to yield to what is good in all these various elements. Neither will it be possible to support a court which is exactly perfect, or under which we assume absolutely no obligations. If we are seeking that opportunity, we might as well declare that we are opposed to supporting any court. If any agreement is made, it will be because it undertakes to set up a tribunal which can do some of the things that other nations wish to have done. We shall not find ourselves bearing a disproportionate share of the world's burdens by our adherence, and we may as well remember that there is absolutely no escape for our country from bearing its share of the world's burdens in any case. We shall do far better service to ourselves and to others if we admit this and discharge our duties voluntarily, than if we deny it and are forced to meet the same obligations unwillingly.

It is difficult to imagine anything that would be more helpful to the world than stability, tranquillity and international justice. We may say that we are contributing to these factors independently, but others less fortunately located do not and can not make a like contribution except through mutual cooperation. The old balance of power, mutual alliances, and great military forces were not brought about by any mutual dislike for independence, but resulted from the domination of circumstances. Ultimately they were forced on us. Like all others engaged in the war whatever we said as a matter of fact we joined an alliance, we became a military power, we impaired our independence. We have more at stake than any one else in

avoiding a repetition of that calamity. Wars do not spring into existence. They arise from small incidents and trifling irritations which can be adjusted by an international court. We can contribute greatly to the advancement of our ideals by joining with other nations in maintaining such a tribunal.

FOREIGN DEBTS

Gradually, settlements have been made which provide for the liquidation of debts due to our Government from foreign governments. Those made with Great Britain, Finland, Hungary, Lithuania, and Poland have already been approved by the Congress. Since the adjournment, further agreements have been entered into with Belgium, Czechoslovakia, Latvia, Esthonia, Italy, and Rumania. These 11 nations, which have already made settlements, represent \$6,419,528,641 of the original principal of the loans. The principal sums without interest, still pending, are the debt of France, of \$3,340,000,000; Greece, \$15,000,000; Yugoslavia, \$51,000,000; Liberia, \$26,000; Russia, \$192,000,000, which those at present in control have undertaken openly to repudiate; Nicaragua, \$84,000, which is being paid currently; and Austria, \$24,000,000, on which by act of Congress a moratorium of 20 years has been granted. The only remaining sum is \$12,000,000, due from Armenia, which has now ceased to exist as an independent nation.

In accordance with the settlements made, the amount of principal and interest which is to be paid to the United States under these agreements aggregates \$15,200,688,253.93. It is obvious that the remaining settlements, which will undoubtedly be made, will bring this sum up to an amount which will more than equal the principal due on our present national debt. While these settlements are very large in the aggregate, it has been felt that the terms granted were in all cases very generous. They impose no undue burden and are mutually beneficial in the observance of international faith and the improvement of international credit.

Every reasonable effort will be made to secure agreements for liquidation with the remaining countries, whenever they are in such condition that they can be made. Those which have already been negotiated under the bipartisan commission established by the Congress have been made only after the most thoroughgoing and painstaking investigation, continued for a long time before meeting with the representatives of the countries concerned. It is believed that they represent in each instance the best that can be done and the wisest settlement that can be secured. One very important result is the stabilization of foreign currency, making exchange assist rather than embarrass our trade. Wherever sacrifices have been

made of money, it will be more than amply returned in better understanding and friendship, while in so far as these adjustments will contribute to the financial stability of the debtor countries, to their good order, prosperity, and progress, they represent hope of improved trade relations and mutual contributions to the civilization of the world.

ALIEN PROPERTY

Negotiations are progressing among the interested parties in relation to the final distribution of the assets in the hands of the Alien Property Custodian. Our Government and people are interested as creditors; the German Government and people are interested as debtors and owners of the seized property. Pending the outcome of these negotiations, I do not recommend any affirmative legislation. For the present we should continue in possession of this property which we hold as security for the settlement of claims due to our people and our Government.

IMMIGRATION

While not enough time has elapsed to afford a conclusive demonstration, such results as have been secured indicate that our immigration law is on the whole beneficial. It is undoubtedly a protection to the wage earners of this country. The situation should, however, be carefully surveyed, in order to ascertain whether it is working a needless hardship upon our own inhabitants. If it deprives them of the comfort and society of those bound to them by close family ties, such modifications should be adopted as will afford relief, always in accordance with the principle that our Government owes its first duty to our own people and that no alien, inhabitant of another country, has any legal rights whatever under our Constitution and laws. It is only through treaty, or through residence here, that such rights accrue. But we should not, however, be forgetful of the obligations of a common humanity.

While our country numbers among its best citizens many of those of foreign birth, yet those who now enter in violation of our laws by that very act thereby place themselves in a class of undesirables. If investigation reveals that any considerable number are coming here in defiance of our immigration restrictions, it will undoubtedly create the necessity for the registration of all aliens. We ought to have no prejudice against an alien because he is an alien. The standard which we apply to our inhabitants is that of manhood, not place of birth. Restrictive immigration is to a large degree for economic purposes. It is applied in order that we may not have a larger annual increment of good people within our borders than we

can weave into our economic fabric in such a way as to supply their needs without undue injury to ourselves.

NATIONAL DEFENSE

Never before in time of peace has our country maintained so large and effective a military force as it now has. The Army, Navy, Marine Corps, National Guard, and Organized Reserves represent a strength of about 558,400 men. These forces are well trained, well equipped, and high in morale.

A sound selective service act giving broad authority for the mobilization in time of peril of all the resources of the country, both persons and materials, is needed to perfect our defensive policy in accordance with our ideals of equality. The provision for more suitable housing to be paid for out of funds derived from the sale of excess lands, pending before the last Congress, ought to be brought forward and passed. Reasonable replacements ought to be made to maintain a sufficient ammunition reserve.

The Navy has the full treaty tonnage of capital ships. Work is going forward in modernizing the older ones, building aircraft carriers, additional fleet submarines, and fast scout cruisers, but we are carefully avoiding anything that might be construed as a competition in armaments with other nations. The joint Army and Navy maneuvers at Hawaii, followed by the cruise of a full Battle Fleet to Australia and New Zealand, were successfully carried out. These demonstrations revealed a most satisfactory condition of the ships and the men engaged.

Last year at my suggestion the General Board of the Navy made an investigation and report on the relation of aircraft to warships. As a result authorizations and appropriations were made for more scout cruisers and fleet submarines and for completing aircraft carriers and equipping them with necessary planes. Additional training in aviation was begun at the Military and Naval Academies. A method of coordination and cooperation of the Army and Navy and the principal aircraft builders is being perfected. At the suggestion of the Secretaries of War and Navy I appointed a special board to make a further study of the problem of aircraft.

The report of the Air Board ought to be reassuring to the country, gratifying to the service and satisfactory to the Congress. It is thoroughly complete and represents the mature thought of the best talent in the country. No radical change in organization of the service seems necessary. The Departments of War, Navy, and Commerce should each be provided with an additional assistant secretary, not necessarily with statutory duties but who would be available under the direction of the Secretary to give especial atten-

tion to air navigation. We must have an air strength worthy of America. Provision should be made for two additional brigadier generals for the Army Air Service. Temporary rank corresponding to their duties should be awarded to active flying officers in both Army and Navy.

Aviation is of great importance both for national defense and commercial development. We ought to proceed in its improvement by the necessary experiment and investigation. Our country is not behind in this art. It has made records for speed and for the excellence of its planes. It ought to go on maintaining its manufacturing plants capable of rapid production, giving national assistance to the laying out of airways, equipping itself with a moderate number of planes, and keeping an air force trained to the highest efficiency.

While I am a thorough believer in national defense and entirely committed to the policy of adequate preparation, I am just as thoroughly opposed to instigating or participating in a policy of competitive armaments. Nor does preparation mean a policy of militarizing. Our people and industries are solicitous for the cause of our country, and have great respect for the Army and Navy and for the uniform worn by the men who stand ready at all times for our protection to encounter the dangers and perils necessary to military service, but all of these activities are to be taken not in behalf of aggression but in behalf of peace. They are the instruments by which we undertake to do our part to promote good will and support stability among all peoples.

VETERANS

If any one desires to estimate the esteem in which the veterans of America are held by their fellow citizens, it is but necessary to remember that the current budget calls for an expenditure of about \$650,000,000 in their behalf. This is nearly the amount of the total cost of the National Government, exclusive of the post office, before we entered the last war.

At the two previous sessions of Congress legislation affecting veterans' relief was enacted and the law liberalized. This legislation brought into being a number of new provisions tending more nearly to meet the needs of our veterans, as well as afford the necessary authority to perfect the administration of these laws.

Experience with the new legislation so far has clearly demonstrated its constructive nature. It has increased the benefits received by many and has made eligible for benefits many others. Direct disbursements to the veteran or his dependents exceeding \$21,000,000 have resulted, which otherwise would not have been made. The degree of utilization of our hospitals has increased through making

facilities available to the incapacitated veteran regardless of service origin of the disability. This new legislation also has brought about a marked improvement of service to the veteran.

The organizations of ex-service men have proposed additional legislative changes which you will consider, but until the new law and the modifications made at the last session of Congress are given a more thorough test further changes in the basic law should be few and made only after careful though sympathetic consideration.

The principal work now before the Veterans' Bureau is the perfection of its organization and further improvements in service. Some minor legislative changes are deemed necessary to enable the bureau to retain that high grade of professional talent essential in handling the problems of the bureau. Such changes as tend toward the improvement of service and the carrying forward to completion of the hospital construction program are recommended for the consideration of the proper committees of Congress.

With the enormous outlay that is now being made in behalf of the veterans and their dependents, with a tremendous war debt still requiring great annual expenditure, with the still high rate of taxation, while every provision should be made for the relief of the disabled and the necessary care of dependents, the Congress may well consider whether the financial condition of the Government is not such that further bounty through the enlargement of general pensions and other emoluments ought not to be postponed.

AGRICULTURE

No doubt the position of agriculture as a whole has very much improved since the depression of three and four years ago. But there are many localities and many groups of individuals, apparently through no fault of their own, sometimes due to climatic conditions and sometimes to the prevailing price of a certain crop, still in a distressing condition. This is probably temporary, but it is none the less acute. National Government agencies, the Departments of Agriculture and Commerce, the Farm Loan Board, the intermediate credit banks, and the Federal Reserve Board are all cooperating to be of assistance and relief. On the other hand, there are localities and individuals who have had one of their most prosperous years. The general price level is fair, but here again there are exceptions both ways, some items being poor while others are excellent. In spite of a lessened production the farm income for this year will be about the same as last year and much above the three preceding years.

Agriculture is a very complex industry. It does not consist of one problem, but of several. They can not be solved at one stroke. They have to be met in different ways, and small gains are not to be despised.

It has appeared from all the investigations that I have been able to make that the farmers as a whole are determined to maintain the independence of their business. They do not wish to have meddling on the part of the Government or to be placed under the inevitable restrictions involved in any system of direct or indirect price-fixing, which would result from permitting the Government to operate in the agricultural markets. They are showing a very commendable skill in organizing themselves to transact their own business through cooperative marketing, which will this year turn over about \$2,500,000,000, or nearly one-fifth of the total agricultural business. In this they are receiving help from the Government. The Department of Agriculture should be strengthened in this facility, in order to be able to respond when these marketing associations want help. While it ought not to undertake undue regulation, it should be equipped to give prompt information on crop prospects, supply, demand, current receipts, imports, exports, and prices.

A bill embodying these principles, which has been drafted under the advice and with the approval of substantially all the leaders and managers in the cooperative movement, will be presented to the Congress for its enactment. Legislation should also be considered to provide for leasing the unappropriated public domain for grazing purposes and adopting a uniform policy relative to grazing on the public lands and in the national forests.

A more intimate relation should be established between agriculture and the other business activities of the Nation. They are mutually dependent and can each advance their own prosperity most by advancing the prosperity of the other. Meantime the Government will continue those activities which have resulted in an unprecedented amount of legislation and the pouring out of great sums of money during the last five years. The work for good roads, better land and water transportation, increased support for agricultural education, extension of credit facilities through the Farm Loan Boards and the intermediate credit banks, the encouragement of orderly marketing and a repression of wasteful speculation, will all be continued.

Following every other depression, after a short period the price of farm produce has taken and maintained the lead in the advance. This advance had reached a climax before the war. Everyone will recall the discussion that went on for four or five years prior to 1914 concerning the high cost of living. This history is apparently beginning to repeat itself. While wholesale prices of other commodities have been declining, farm prices have been increasing. There is every reason to suppose that a new era in agricultural prosperity lies just before us, which will probably be unprecedented.

MUSCLE SHOALS

The problem of Muscle Shoals seems to me to have assumed a place all out of proportion with its real importance. It probably does not represent in market value much more than a first-class battleship, yet it has been discussed in the Congress over a period of years and for months at a time. It ought to be developed for the production of nitrates primarily, and incidentally for power purposes. This would serve defensive, agricultural, and industrial purposes. I am in favor of disposing of this property to meet these purposes. The findings of the special commission will be transmitted to the Congress for their information. I am convinced that the best possible disposition can be made by direct authorization of the Congress. As a means of negotiation I recommend the immediate appointment of a small joint special committee chosen from the appropriate general standing committees of the House and Senate to receive bids, which when made should be reported with recommendations as to acceptance, upon which a law should be enacted, effecting a sale to the highest bidder who will agree to carry out these purposes.

If anything were needed to demonstrate the almost utter incapacity of the National Government to deal directly with an industrial and commercial problem, it has been provided by our experience with this property. We have expended vast fortunes, we have taxed everybody, but we are unable to secure results which benefit anybody. This property ought to be transferred to private management under conditions which will dedicate it to the public purpose for which it was conceived.

RECLAMATION

The National Government is committed to a policy of reclamation and irrigation which it desires to establish on a sound basis and continue in the interest of the localities concerned. Exhaustive studies have recently been made of Federal reclamation, which have resulted in improving the projects and adjusting many difficulties. About one third of the projects is in good financial condition, another third can probably be made profitable, while the other third is under unfavorable conditions. The Congress has already provided for a survey which will soon be embodied in a report. That ought to suggest a method of relief which will make unnecessary further appeals to the Congress. Unless this can be done, Federal reclamation will be considerably retarded. With the greatly increased cost of construction and operation, it has become necessary to plan in advance, by community organization and selective agriculture, methods sufficient to repay these increasing outlays.

The human and economic interests of the farmer citizens suggest that the States should be required to exert some effort and assume some responsibility, especially in the intimate, detailed, and difficult work of securing settlers and developing farms which directly profit them, but only indirectly and remotely can reimburse the Nation. It is believed that the Federal Government should continue to be the agency for planning and constructing the great undertakings needed to regulate and bring into use the rivers of the West, many of which are interstate in character, but the detailed work of creating agricultural communities and a rural civilization on the land made ready for reclamation ought to be either transferred to the State in its entirety or made a cooperative effort of the State and Federal Government.

SHIPPING

The maintenance of a merchant marine is of the utmost importance for national defense and the service of our commerce. We have a large number of ships engaged in that service. We also have a surplus supply, costly to care for, which ought to be sold. All the investigations that have been made under my direction, and those which have been prosecuted independently, have reached the conclusion that the fleet should be under the direct control of a single executive head, while the Shipping Board should exercise its judicial and regulatory functions in accordance with its original conception. The report of Henry G. Dalton, a business man of broad experience, with a knowledge of shipping, made to me after careful investigation, will be transmitted for the information of the Congress, the studies pursued under the direction of the United States Chamber of Commerce will also be accessible, and added to these will be the report of the special committee of the House.

I do not advocate the elimination of regional considerations, but it has become apparent that without centralized executive action the management of this great business, like the management of any other great business, will flounder in incapacity and languish under a division of council. A plain and unmistakable reassertion of this principle of unified control, which I have always been advised was the intention of the Congress to apply, is necessary to increase the efficiency of our merchant fleet.

COAL

The perennial conflict in the coal industry is still going on to the great detriment of the wage earners, the owners, and especially to the public. With deposits of coal in this country capable of supplying its needs for hundreds of years, inability to manage and

control this great resource for the benefit of all concerned is very close to a national economic failure. It has been the subject of repeated investigation and reiterated recommendation. Yet the industry seems never to have accepted modern methods of adjusting differences between employers and employees. The industry could serve the public much better and become subject to a much more effective method of control if regional consolidations and more freedom in the formation of marketing associations, under the supervision of the Department of Commerce, were permitted.

At the present time the National Government has little or no authority to deal with this vital necessity of the life of the country. It has permitted itself to remain so powerless that its only attitude must be humble supplication. Authority should be lodged with the President and the Departments of Commerce and Labor, giving them power to deal with an emergency. They should be able to appoint temporary boards with authority to call for witnesses and documents, conciliate differences, encourage arbitration, and in case of threatened scarcity exercise control over distribution. Making the facts public under these circumstances through a statement from an authoritative source would be of great public benefit. The report of the last coal commission should be brought forward, reconsidered, and acted upon.

PROHIBITION

Under the orderly processes of our fundamental institutions the Constitution was lately amended providing for national prohibition. The Congress passed an act for its enforcement, and similar acts have been provided by most of the States. It is the law of the land. It is the duty of all who come under its jurisdiction to observe the spirit of that law, and it is the duty of the Department of Justice and the Treasury Department to enforce it. Action to prevent smuggling, illegal transportation in interstate commerce, abuse in the use of permits, and existence of sources of supply for illegal traffic is almost entirely imposed upon the Federal Government.

Through treaties with foreign governments and increased activities of the Coast Guard, revenue agents, district attorneys, and enforcement agents effort is being made to prevent these violations. But the Constitution also puts a concurrent duty on the States. We need their active and energetic cooperation, the vigilant action of their police, and the jurisdiction of their courts to assist in enforcement. I request of the people observance, of the public officers continuing efforts for enforcement, and of the Congress favorable action on the budget recommendation for the prosecution of this work.

WATERWAY DEVELOPMENT

For many years our country has been employed in plans and operations for the development of our intracoastal and inland waterways. This work along our coast is an important adjunct to our commerce. It will be carried on, together with the further opening up of our harbors, as our resources permit. The Government made an agreement during the war to take over the Cape Cod Canal, under which the owners made valuable concessions. This pledged faith of the Government ought to be redeemed.

Two other main fields are under consideration. One is the Great Lakes and St. Lawrence, including the Erie Canal. This includes stabilizing the lake level, and is both a waterway and power project. A joint commission of the United States and Canada is working on plans and surveys which will not be completed until next April. No final determination can be made, apparently, except under treaty as to the participation of both countries. The other is the Mississippi River system. This is almost entirely devoted to navigation. Work on the Ohio River will be completed in about three years. A modern channel connecting Chicago, New Orleans, Kansas City, and Pittsburgh should be laid out and work on the tributaries prosecuted. Some work is being done of a preparatory nature along the Missouri, and large expenditures are being made yearly in the lower reaches of the Mississippi and its tributaries which contribute both to flood control and navigation. Preliminary measures are being taken on the Colorado River project, which is exceedingly important for flood control, irrigation, power development, and water supply to the area concerned. It would seem to be very doubtful, however, whether it is practical to secure affirmative action of the Congress, except under a joint agreement of the several States.

The Government has already expended large sums upon scientific research and engineering investigation in promotion of this Colorado River project. The actual progress has been retarded for many years by differences among the seven States in the basin over their relative water rights and among different groups as to methods. In an attempt to settle the primary difficulty of the water rights, Congress authorized the Colorado River Commission which agreed on November 24, 1922, upon an interstate compact to settle these rights, subject to the ratification of the State legislatures and Congress. All seven States except Arizona at one time ratified, the Arizona Legislature making certain reservations which failed to meet the approval of the governor. Subsequently an attempt was made to establish the compact upon a six-State basis, but in this case California imposed reservations. There appears to be no division of opinion upon the major principles of the compact, but difficulty in separating contentions as

to methods of development from the discussion of it. It is imperative that flood control be undertaken for California and Arizona, preparation made for irrigation, for power, and for domestic water.

Some or all of these questions are combined in every proposed development. The Federal Government is interested in some of these phases, State governments and municipalities and irrigation districts in others, and private corporations in still others. Because of all this difference of view it is most desirable that Congress should consider the creation of some agency that will be able to determine methods of improvement solely upon economic and engineering facts, that would be authorized to negotiate and settle, subject to the approval of Congress, the participation, rights, and obligations of each group in any particular works. Only by some such method can early construction be secured.

WATER POWER

Along with the development of navigation should go every possible encouragement for the development of our water power. While steam still plays a dominant part, this is more and more becoming an era of electricity. Once installed, the cost is moderate, has not tended greatly to increase, and is entirely free from the unavoidable dirt and disagreeable features attendant upon the burning of coal. Every facility should be extended for the connection of the various units into a superpower plant, capable at all times of a current increasing uniformity over the entire system.

RAILROADS

The railroads throughout the country are in a fair state of prosperity. Their service is good and their supply of cars is abundant. Their condition would be improved and the public better served by a system of consolidations. I recommend that the Congress authorize such consolidations under the supervision of the Interstate Commerce Commission, with power to approve or disapprove when proposed parts are excluded or new parts added. I am informed that the railroad managers and their employees have reached a substantial agreement as to what legislation is necessary to regulate and improve their relationship. Whenever they bring forward such proposals, which seem sufficient also to protect the interests of the public, they should be enacted into law.

It is gratifying to report that both the railroad managers and railroad employees are providing boards for the mutual adjustment of differences in harmony with the principles of conference, conciliation, and arbitration. The solution of their problems ought to be an

example to all other industries. Those who ask the protections of civilization should be ready to use the methods of civilization.

A strike in modern industry has many of the aspects of war in the modern world. It injures labor and it injures capital. If the industry involved is a basic one, it reduces the necessary economic surplus and, increasing the cost of living, it injures the economic welfare and general comfort of the whole people. It also involves a deeper cost. It tends to embitter and divide the community into warring classes and thus weakens the unity and power of our national life.

Labor can make no permanent gains at the cost of the general welfare. All the victories won by organized labor in the past generation have been won through the support of public opinion. The manifest inclination of the managers and employees of the railroads to adopt a policy of action in harmony with these principles marks a new epoch in our industrial life.

OUTLYING POSSESSIONS

The time has come for careful investigation of the expenditures and success of the laws by which we have undertaken to administer our outlying possessions. A very large amount of money is being expended for administration in Alaska. It appears so far out of proportion to the number of inhabitants and the amount of production as to indicate cause for thorough investigation. Likewise consideration should be given to the experience under the law which governs the Philippines. From such reports as reach me there are indications that more authority should be given to the Governor General, so that he will not be so dependent upon the local legislative body to render effective our efforts to set an example of the sound administration and good government, which is so necessary for the preparation of the Philippine people for self-government under ultimate independence. If they are to be trained in these arts, it is our duty to provide for them the best that there is.

RETIREMENT OF JUDGES

The act of March 3, 1911, ought to be amended so that the term of years of service of judges of any court of the United States requisite for retirement with pay shall be computed to include not only continuous but aggregate service.

MOTHERS' AID

The Government ought always to be alert on the side of the humanities. It ought to encourage provisions for economic justice for the defenseless. It ought to extend its relief through its national

and local agencies, as may be appropriate in each case, to the suffering and the needy. It ought to be charitable.

Although more than 40 of our States have enacted measures in aid of motherhood, the District of Columbia is still without such a law. A carefully considered bill will be presented, which ought to have most thoughtful consideration in order that the Congress may adopt a measure which will be hereafter a model for all parts of the Union.

CIVIL SERVICE

In 1883 the Congress passed the civil service act, which from a modest beginning of 14,000 employees has grown until there are now 425,000 in the classified service. This has removed the clerical force of the Nation from the wasteful effects of the spoils system and made it more stable and efficient. The time has come to consider classifying all postmasters, collectors of customs, collectors of internal revenue, and prohibition agents, by an act covering in those at present in office, except when otherwise provided by Executive order.

The necessary statistics are now being gathered to form the basis of a valuation of the civil service retirement fund based on current conditions of the service. It is confidently expected that this valuation will be completed in time to be made available to the Congress during the present session. It will afford definite knowledge of existing and future liabilities under the present law and determination of liabilities under any proposed change in the present law. We should have this information before creating further obligations for retirement annuities which will become liabilities to be met in the future from the money of the taxpayer.

The classification act of 1923, with the subsequent legislative action providing for adjustment of the compensation of field service positions, has operated materially to improve employment conditions in the Federal service. The administration of the act is in the hands of an impartial board, functioning without the necessity of a direct appropriation. It would be inadvisable at this time to place in other hands the administration of this act.

FEDERAL TRADE COMMISSION

The proper function of the Federal Trade Commission is to supervise and correct those practices in commerce which are detrimental to fair competition. In this it performs a useful function and should be continued and supported. It was designed also to be a help to honest business. In my message to the Sixty-eighth Congress I recommended that changes in the procedure then existing be made. Since then the commission by its own action has reformed its rules,

giving greater speed and economy in the disposal of its cases and full opportunity for those accused to be heard. These changes are improvements and, if necessary, provision should be made for their permanency.

REORGANIZATION

No final action has yet been taken on the measure providing for the reorganization of the various departments. I therefore suggest that this measure, which will be of great benefit to the efficient and economical administration of the business of the Government, be brought forward and passed.

THE NEGRO

Nearly one-tenth of our population consists of the Negro race. The progress which they have made in all the arts of civilization in the last 60 years is almost beyond belief. Our country has no more loyal citizens. But they do still need sympathy, kindness, and helpfulness. They need reassurance that the requirements of the Government and society to deal out to them even-handed justice will be met. They should be protected from all violence and supported in the peaceable enjoyment of the fruits of their labor. Those who do violence to them should be punished for their crimes. No other course of action is worthy of the American people.

Our country has many elements in its population, many different modes of thinking and living, all of which are striving in their own way to be loyal to the high ideals worthy of the crown of American citizenship. It is fundamental of our institutions that they seek to guarantee to all our inhabitants the right to live their own lives under the protection of the public law. This does not include any license to injure others materially, physically, morally, to incite revolution, or to violate the established customs which have long had the sanction of enlightened society.

But it does mean the full right to liberty and equality before the law without distinction of race or creed. This condition can not be granted to others, or enjoyed by ourselves, except by the application of the principle of broadest tolerance. Bigotry is only another name for slavery. It reduces to serfdom not only those against whom it is directed, but also those who seek to apply it. An enlarged freedom can only be secured by the application of the golden rule. No other utterance ever presented such a practical rule of life.

CONCLUSION

It is apparent that we are reaching into an era of great general prosperity. It will continue only so long as we shall use it properly.

After all, there is but a fixed quantity of wealth in this country at any fixed time. The only way that we can all secure more of it is to create more. The element of time enters into production. If the people have sufficient moderation and contentment to be willing to improve their condition by the process of enlarging production, eliminating waste, and distributing equitably, a prosperity almost without limit lies before us. If the people are to be dominated by selfishness, seeking immediate riches by nonproductive speculation and by wasteful quarreling over the returns from industry, they will be confronted by the inevitable results of depression and privation. If they will continue industrious and thrifty, contented with fair wages and moderate profits, and the returns which accrue from the development of our natural resources, our prosperity will extend itself indefinitely.

In all your deliberations you should remember that the purpose of legislation is to translate principles into action. It is an effort to have our country be better by doing better. Because the thoughts and ways of people are firmly fixed and not easily changed, the field within which immediate improvement can be secured is very narrow. Legislation can provide opportunity. Whether it is taken advantage of or not depends upon the people themselves. The Government of the United States has been created by the people. It is solely responsible to them. It will be most successful if it is conducted solely for their benefit. All its efforts would be of little avail unless they brought more justice, more enlightenment, more happiness and prosperity into the home. This means an opportunity to observe religion, secure education, and earn a living under a reign of law and order. It is the growth and improvement of the material and spiritual life of the Nation. We shall not be able to gain these ends merely by our own action. If they come at all, it will be because we have been willing to work in harmony with the abiding purpose of a Divine Providence.

CALVIN COOLIDGE

LIST OF PAPERS

[Unless otherwise specified, the correspondence is from or to officials in the Department of State]

GENERAL

SCRAPPING OF SHIPS BY THE UNITED STATES, GREAT BRITAIN, AND JAPAN IN ACCORDANCE WITH THE TREATY FOR THE LIMITATION OF NAVAL ARMAMENT, SIGNED FEBRUARY 6, 1922

Date and number	Subject	Page
1925		
Feb. 17 (29440-178:17S)	<i>From the Secretary of the Navy</i> Information that Navy Department has completed scrapping of vessels as required under the Treaty for the Limitation of Naval Armament. (Information communicated to France, Great Britain, Italy, and Japan.)	1
Feb. 20	<i>To the Secretary of the Navy</i> Expression of appreciation for Navy Department's careful execution of the task imposed by the treaty.	1
Mar. 6 (Foreign Service Report 15)	<i>From the Ambassador in Japan</i> Information that Japan has completed scrapping of vessels as provided for in the treaty.	2
Mar. 24 (298)	<i>From the British Ambassador</i> Information that Great Britain has completed scrapping of vessels in accordance with the treaty.	2

PROPOSALS FOR THE CALLING BY THE PRESIDENT OF THE UNITED STATES OF A DISARMAMENT CONFERENCE

1925 Undated	<i>Excerpt From a Memorandum of a Conversation Between the British Secretary of State for Foreign Affairs and the American Ambassador, London, February 11 [10?], 1925</i> Opinion of Sir Austen Chamberlain that much could be accomplished by a naval disarmament conference, and intimation that he would welcome an invitation from the United States to hold such a conference.	3
Feb. 14 (67)	<i>From the Ambassador in Great Britain (tel.)</i> Mr. Chamberlain's opinion that France and Japan would participate in a naval disarmament conference.	4
Feb. 14 (74)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to ascertain the basis for Mr. Chamberlain's belief that France would join in a conference.	4
Feb. 17 (71)	<i>From the Ambassador in Great Britain (tel.)</i> Basis of Mr. Chamberlain's views found to be his inference from general political situation in France and conversation with French Premier.	5

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Feb. 20 (34)	<i>From the Ambassador in Japan (tel.)</i> United Press cablegram reporting consent of England, Japan, and Italy to conference, and consent of France awaited by President Coolidge.	5
Feb. 21 (94)	<i>To the Ambassador in France (tel.)</i> Résumé of what has occurred in regard to discussion of disarmament conference; assurance for French Government that no formal negotiations have taken place, as might have been inferred from press reports, and that if the United States takes any initiative in the matter, all the other Governments, including France, will be notified.	6
Feb. 21 (19)	<i>To the Ambassador in Japan (tel.)</i> Summary of situation concerning possible calling of conference, and U. S. position; regret that press reports have made it appear that some special negotiation was going on with Great Britain.	7
Mar. 18 (51)	<i>From the Ambassador in Japan (tel.)</i> London press despatch reporting President Coolidge's alleged decision, following failure of Geneva Protocol, to proceed with the conference even if some powers refuse to take part. Japanese impression that U. S.-British conversations were significant. (Footnote: British Government's announcement, March 12, of its inability to accept Geneva Protocol.)	8
Mar. 19 (31)	<i>To the Ambassador in Japan (tel.)</i> Secretary's explanation to Japanese Ambassador in Washington that the subject of a disarmament conference was introduced by Mr. Chamberlain, that conversations were informal, and that if the President decided to call a conference the United States would communicate with Japan as well as other Governments.	9
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Oct. 22 (385)	<i>To the Ambassador in France (tel.)</i> Instructions to cable summary of press comment in country to which accredited regarding the President's remarks to the press on possibility of disarmament conference. (Similar instruction sent to Japan. Instructions to Ambassador in France to repeat to Great Britain, Germany, and Italy.)	11
Oct. 23 (510)	<i>From the Chargé in France (tel.)</i> Press comment opposed to any disarmament conference.	11
Oct. 24 (160)	<i>From the Chargé in Italy (tel.)</i> No press comment in regard to a disarmament conference.	11

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1925 Oct. 24 (332)	<i>From the Ambassador in Great Britain (tel.)</i> Ambassador's feeling that an atmosphere of hostility exists toward any conference in Washington on land armament, but that proposition to reduce naval armaments might be favorably received. General press comment to the effect that with the Locarno Agreement, initiative has passed from Washington to Geneva.	12
Oct. 24 (322)	<i>To the Ambassador in Great Britain (tel.)</i> Request that Ambassador ascertain informally and unofficially the attitude of the British Government toward President's calling of a disarmament conference, and the opinion of British officials as to its reception by other European countries. (Footnote: Telegram from Ambassador, October 26, stating that Department's inquiry had been answered by his telegram No. 332, October 24.)	13
Oct. 24 (176)	<i>From the Chargé in Japan (tel.)</i> Absence of editorial comment in Japanese press regarding President's remarks. Information that Japan would prefer to see settlement of obligations arising out of the 1922 Washington Conference before considering new commitments.	14
Oct. 26 (183)	<i>From the Ambassador in Germany (tel.)</i> Information that the President's remarks have received very little press comment. Ambassador's opinion that Germany would welcome President's calling of a conference.	14
Oct. 29 (337)	<i>From the Ambassador in Great Britain (tel.)</i> Probability of the calling of a European conference for the limitation of armament, excluding United States. Ambassador's suggestion that the situation might be aided if President Coolidge were to point out that any so-called American interference in European affairs has come only when European powers themselves were unable to agree and had asked for help.	15
Nov. 19 (338)	<i>To the Ambassador in Great Britain (tel.)</i> Information that the President will take up the subject in his message to Congress, December 8.	16

DISINCLINATION OF THE UNITED STATES TO BE ASSOCIATED IN EUROPEAN
SECURITY PACTS: (1) GENEVA PROTOCOL; (2) LOCARNO AGREEMENT

1925 Undated	<i>Memorandum by the Secretary of State of a Conversation With the British Ambassador, January 5, 1925</i> British efforts for modifications in the Geneva Protocol. Secretary's personal views as to aspects of protocol which might give concern to U. S. Government. Ambassador's suggestion for possible reservation by Great Britain, and Secretary's desire that, in event of such reservation, nothing be said to the effect that an arrangement satisfactory to United States had been made regarding ratification of the protocol.	16
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Undated	<i>Memorandum by the Secretary of State of a Conversation With the German Ambassador, March 16, 1925</i> Substance of proposition made by Germany to France and Great Britain for a joint security pact to secure France, including proposal that France's security be guaranteed to United States. Secretary's statement that United States is not authorized to join in any guarantee, nor is question of Germany's joining the League of Nations a matter for U. S. comment or suggestion.	20
Mar. 16	<i>From the Chargé in Great Britain</i> German memorandum of January 20 (text printed) handed to Great Britain, France, Italy, and Belgium on the subject of a security pact. Information that Great Britain will probably attempt to induce France to include Germany in any pact, on the understanding that Germany will first enter the League of Nations on an equal footing.	21
June 5 (123)	<i>To the Minister in Poland</i> Secretary's assertion, upon receipt of Polish Legation's memorandum of May 28 (text printed) summarizing Polish position in connection with possible security pacts, that United States cannot associate itself in any way with a security pact.	23

PARTICIPATION BY THE UNITED STATES IN THE CONFERENCE FOR THE SUPER-
VISION OF THE INTERNATIONAL TRAFFIC IN ARMS, AT GENEVA, MAY 4-
JUNE 17, 1925

1925 Jan. 8 (C. L. 192. 1924. IX)	<i>From the Secretary General of the League of Nations</i> Notification of meeting at Geneva, May 4, 1925, of international conference to examine the draft convention for the control of the international traffic in arms adopted July 12, 1924, by the Temporary Mixed Commission of the League of Nations, and to conclude a convention on the subject. List of governments having already signified willingness to be present.	26
Apr. 16 (1)	<i>To the American Delegation</i> Instructions for representing United States at the Geneva conference. Explanation of U. S. position regarding certain principles underlying the draft convention, namely, the licensing system; the restriction of sales to recognized governments and belligerents; and the prohibited zones. U. S. insistence upon publicity of shipments by governments as well as by private parties. Consideration of the draft convention article by article. (Footnotes: Membership of American delegation and its technical advisers and secretarial staff.)	27

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1925 Apr. 16 (2)	<p><i>To the American Delegation</i></p> <p>Instructions as to attitude to be taken in the event of Soviet participation in the conference. Reservation (text printed) to be made in proposed convention as safeguard against any possible misconstruction of attitude of United States toward a signatory or adhering power represented by a regime not recognized by the United States.</p>	48
May 13 (28)	<p><i>From the Chairman of the American Delegation (tel.)</i></p> <p>Desire of French delegation for provision in draft convention that signatories will undertake not to authorize the exportation of war material to countries where domestic legislation prohibits its importation. Circulation of draft provision to that effect by the Uruguayan representative. Request for instructions.</p>	50
May 14 (20)	<p><i>To the Chairman of the American Delegation (tel.)</i></p> <p>Department's belief that insertion of provision such as suggested by the French delegation would be superfluous to the purposes of the convention.</p>	51
May 15 (31)	<p><i>From the Chairman of the American Delegation (tel.)</i></p> <p>Egyptian delegate's suggestion of a statement to be included in convention to provide for possible infractions of the convention by foreigners in countries where extraterritorial rights are enjoyed. Views of American delegation and suggestion of substitute provision.</p>	51
May 15 (32)	<p><i>From the Chairman of the American Delegation (tel.)</i></p> <p>Opinion, after further consideration, that the principle involved in the Uruguayan proposal (made on French initiative), if properly phrased, might serve as a useful precedent for securing cooperation of foreign powers in making effective the provisions of the U. S. prohibition law.</p>	52
May 16 (21)	<p><i>To the Chairman of the American Delegation (tel.)</i></p> <p>Information that Department would not object to provision suggested in regard to extraterritorial countries.</p>	53
May 16 (24)	<p><i>To the Chairman of the American Delegation (tel.)</i></p> <p>Instructions to oppose proposal of Uruguayan delegate, since the proposal, even if redrafted in accordance with American delegation's suggestion, might prove either useless or embarrassing.</p>	53
May 21 (42)	<p><i>From the Chairman of the American Delegation (tel.)</i></p> <p>Request for instructions as to whether Department wishes delegation to endeavor to secure modification of article 31 regarding submission of disputes to arbitration, or to seek a reservation on the part of the United States.</p>	54
May 23 (36)	<p><i>To the Chairman of the American Delegation (tel.)</i></p> <p>Opinion of Department that modification of article 31 is not necessary; authorization, subject to final instructions, to sign convention without reservations as to article 31.</p>	54

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1925 Undated	<i>Memorandum by the Secretary of State of a Conversation With the British Ambassador, January 8, 1925</i> U. S. desire that Great Britain act entirely on its own responsibility in dealing with Geneva Protocol, and especially that no mention be made of any understanding with United States. Ambassador's reiteration of British policy to act in cooperation with United States.	19
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Mar. 16	<i>From the Chargé in Great Britain</i> German memorandum of January 20 (text printed) handed to Great Britain, France, Italy, and Belgium on the subject of a security pact. Information that Great Britain will probably attempt to induce France to include Germany in any pact, on the understanding that Germany will first enter the League of Nations on an equal footing.	21
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May 21 (42)	<p><i>From the Chairman of the American Delegation (tel.)</i></p> <p>Request for instructions as to whether Department wishes delegation to endeavor to secure modification of article 31 regarding submission of disputes to arbitration, or to seek a reservation on the part of the United States.</p>	54
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1925		
June 1 (54)	<i>From the Chairman of the American Delegation (tel.)</i> Recommendation of Military and Naval Committee for a separate international conference to deal with subject of gas warfare. Suggestion of American delegation that, as means of retaining initiative in the matter, U. S. President might invite countries to designate representatives to agree in Washington on a convention on use of poison gas.	55
June 3 (50)	<i>To the Chairman of the American Delegation (tel.)</i> Secretary's suggestion of resolution regarding use of poison gas to be proposed to conference; other suggestions for keeping initiative in hands of United States; plan to consult with President about possible calling of a conference.	56
June 4 (51)	<i>To the Chairman of the American Delegation (tel.)</i> Authorization, as result of Secretary's consultation with President, to indicate to powers represented at conference the President's willingness to extend invitation as suggested by American delegation.	57
June 4 (60)	<i>From the Chairman of the American Delegation (tel.)</i> Information that resolution substantially identical with that proposed by Secretary was rejected in committee and that other suggestions were criticized. Request for further instructions. (Footnote: No indication of further action.)	57
June 14 (87)	<i>From the Chairman of the American Delegation (tel.)</i> Request for authorization to sign convention.	58
June 15 (64)	<i>To the Chairman of the American Delegation (tel.)</i> Authorization for signature of convention, provided no new or objectionable features are introduced, and provided a reasonable number of other powers are prepared to sign.	59
[June 17] (90)	<i>From the Chairman of the American Delegation (tel.)</i> Information that convention, final act, protocol of signature, and gas protocol have been signed by the chairman and vice chairman of American delegation.	59
June 17	<i>From the Chairman of the American Delegation</i> Statement (text printed) approving provisions of convention and consenting to its signature, signed by the three American delegates who did not join in signing of the treaties.	59
July 24 (471)	<i>From the Minister in Switzerland</i> Transmittal of various acts signed at Geneva June 17, 1925: Convention for the supervision of the international trade in arms (text printed), protocol concerning gases (text printed), declaration regarding the Territory of Ifni, the final act, and the protocol of signature. (Footnote: Information concerning the declaration regarding the Territory of Ifni, the final act, and the protocol of signature.)	60

GENERAL

FAILURE OF THE UNITED STATES TO SECURE THE ADOPTION OF THE RULES
DRAFTED BY THE INTERNATIONAL COMMISSION FOR THE REVISION OF THE
RULES OF WARFARE

Date and number	Subject	Page
1924 Jan. 26 (829)	<i>To the Ambassador in France</i> Instructions to make clear to the Government to which accredited the readiness of United States, in conjunction with Great Britain, France, Italy, Japan, and the Netherlands, to accept the two sets of rules drafted by the International Commission of Jurists in 1923. Instructions, further, to inquire whether Government would be disposed to conclude with United States and other powers mentioned two conventions (such as were proposed by the American delegation at The Hague, February 12, 1923), to each of which one set of rules should be annexed. (The same to representatives in Great Britain, Italy, Japan, and the Netherlands.)	93
Apr. 23 (459-E)	<i>From the Ambassador in Japan</i> Foreign Office note, April 19, 1924 (text printed), indicating willingness of Japan to adopt both sets of rules prepared by Commission of Jurists and to conclude conventions substantially as suggested by United States.	95
July 18 (1061)	<i>To the Ambassador in France</i> Instructions to bring matter of proposed conventions again to the attention of Foreign Office, referring to favorable action by Japan and emphasizing U. S. hope for affirmative reply from France. (Footnote: Similar instructions to representatives in Great Britain, Italy, and the Netherlands.)	96
1925 Jan. 10 (24)	<i>To the Ambassador in France (tel.)</i> Instructions to endeavor to obtain early favorable decision from Foreign Office. (Footnote: Similar telegrams to representatives in Great Britain, Italy, and the Netherlands.)	97
Jan. 31 (313)	<i>From the Ambassador in Italy</i> Foreign Office note, January 29 (text printed), acceding to principles involved in conventions proposed, but asserting advisability of considering the review and expansion of the conventions.	97
Feb. 12 (398)	<i>From the Minister in the Netherlands</i> Foreign Office note, February 11 (text printed), replying in detail to inquiries of United States relative to the proposed conventions—agreeing in principle with U. S. ideas as to form of conventions, suggesting convocation of a conference to agree upon details of rules to be annexed, and explaining inability to accept certain articles of the rules in their present form. (Footnote: Foreign Office note, September 1, 1939, explaining that the Netherlands point of view has undergone certain changes since 1925.)	99
Mar. 12 (4941)	<i>From the Ambassador in France</i> Foreign Office note, March 10 (text printed), stating that the rules proposed reproduce solutions already adopted by France and included either in conventions now in force or in practices of international law.	105

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FAILURE OF THE UNITED STATES TO SECURE THE ADOPTION OF THE RULES
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RULES OF WARFARE—Continued

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1925 Apr. 9 (1166)	<i>From the Chargé in Great Britain</i> Foreign Office note, April 6 (text printed), stating British Government's decision to await further international discussion on question before formulating its views on the rules prepared by the Commission of Jurists.	106

NEGOTIATIONS ON BEHALF OF THE WORLD WAR FOREIGN DEBT COMMISSION FOR
THE SETTLEMENT OF DEBTS OWED THE UNITED STATES BY FOREIGN GOVERNMENTS

BELGIUM

1925 Mar. 26 (111)	<i>To the Ambassador in Belgium</i> Note to be presented to Foreign Office (text printed) referring to correspondence of 1919 (extracts printed) whereby Belgium agreed to accord to post-armistice advances by United States as favorable treatment as that accorded to advances by other nations; and inquiring, in light of the foregoing, when United States may expect to receive payments on account of the Belgian post-armistice relief debt proportionate to payments which Belgium appears to have made to other creditor nations on similar account. (Footnote: Note delivered to the Foreign Office April 22.)	107
May 29 (32)	<i>To the Ambassador in Belgium (tel.)</i> Instructions to inform Belgian officials that United States will not object to flotation of proposed \$50,000,000 loan by Belgium, being negotiated with J. P. Morgan & Co., provided Belgian Government will undertake at once to refund its entire indebtedness to United States on certain principles enumerated, and will set forth in writing its acceptance of these principles and agree to send a commission to United States to negotiate settlement with World War Foreign Debt Commission.	114
May 31 (62)	<i>From the Ambassador in Belgium (tel.)</i> Decision of Belgian officials to accept U. S. conditions and to send note to that effect.	116
June 2 (65)	<i>From the Ambassador in Belgium (tel.)</i> Foreign Office note (text printed) stating adherence in principle to U. S. conditions.	117
June 3 (35)	<i>To the Ambassador in Belgium (tel.)</i> Information that Belgian note is unsatisfactory because it leaves certain particulars in doubt. Instructions to make a communication to Belgian Government (text printed), or, if considered preferable, to proceed along some other line to obtain unequivocal statement accepting principles set forth by United States.	118
June 5 (70)	<i>From the Ambassador in Belgium (tel.)</i> Unconditional acceptance of U. S. principles as basis of negotiation. Belgian memorandum, June 5 (text printed), for U. S. approval.	119

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1925 June 6 (39)	<i>To the Ambassador in Belgium (tel.)</i> Instructions to state, upon receipt of written assurance that Belgium will send a mission to United States in July to negotiate settlement, that United States considers memorandum of June 5 satisfactory.	120
June 7 (72)	<i>From the Ambassador in Belgium (tel.)</i> Belgian statement (text printed) giving assurance that mission will be sent to United States.	121
June 7 (40)	<i>To the Ambassador in Belgium (tel.)</i> Information that Department has notified the press regarding Belgian mission to be sent to United States, and has notified J. P. Morgan & Co. that it has no objection to the \$50,000,000 loan. (Footnote: Information that Belgian Commission sailed from Cherbourg on July 30.)	121

CZECHOSLOVAKIA

1925 Apr. 4 (252)	<i>To the Minister in Czechoslovakia</i> Note to be presented to Czechoslovak Government (text printed) expressing surprise at apparent discrimination against United States in favor of other creditor governments, in view of the understanding set forth in 1919 correspondence (texts printed) regarding U. S. advances to Czechoslovakia for relief and reconstruction purposes.	122
May 2 (12)	<i>From the Minister in Czechoslovakia (tel.)</i> Information that Dr. Beneš, Czechoslovak Minister of Foreign Affairs, denies any intention of discriminating against United States by arranging payment of so-called Nansen relief bonds and will write Minister in explanation.	125
May 5 (11)	<i>To the Minister in Czechoslovakia (tel.)</i> Résumé of situation in regard to Czechoslovak debt to United States, emphasizing Czechoslovak pledge in 1919 not to discriminate against United States and fact that the arrangement for refunding of relief credits extended by other governments is in violation of this assurance.	125
May 16 (16)	<i>From the Minister in Czechoslovakia (tel.)</i> Reaffirmation by Dr. Beneš of Czechoslovak intention to honor all her engagements, and his plan to take up debt question without delay.	126
July 6 (26)	<i>To the Minister in Czechoslovakia (tel.)</i> Czechoslovak Chargé's statement that his Government had in principle agreed to meet all obligations to United States; enumeration of points agreed to, and desire to know if they would constitute a basis satisfactory for beginning of negotiations. Department's request for any information available on actual intentions of Czechoslovak Government.	126

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July 16 (28)	<i>To the Minister in Czechoslovakia (tel.)</i> Memorandum handed to Czechoslovak Chargé on July 10 (text printed) stating readiness of World War Foreign Debt Commission to enter negotiations with a commission from Czechoslovakia to conclude a settlement of the debt question.	127
July 21 (29)	<i>To the Minister in Czechoslovakia (tel.)</i> Informal memorandum left at Department on July 20 by Czechoslovak Chargé (text printed) stating readiness of Czechoslovakia to begin negotiations after the settlement of the debt question with United States by Belgium, France, and Italy, and inquiring whether such a time will be acceptable. U. S. informal reply that no connection exists between these several debt questions, and that negotiations should begin in the very near future.	128
July 23 (41)	<i>From the Minister in Czechoslovakia (tel.)</i> Receipt of note from Czechoslovak Government formally acknowledging indebtedness to United States and stating difficulty of submitting a full proposal for settlement because of fiscal and economic condition of Czechoslovakia.	129
Aug. 27 (37)	<i>To the Minister in Czechoslovakia (tel.)</i> Note to be presented to Czechoslovak Government (text printed) expressing U. S. confidence that a suitable basis of settlement can readily be reached at present time; expectation that Czechoslovakia will promptly take action looking toward settlement; and hope that a commission will be sent to United States at an early date to enter negotiations. (Footnote: Information that note was presented August 31.)	130
Sept. 21	<i>From the Czechoslovak Chargé</i> Membership of Czechoslovak commission to United States and information that commission will sail from Cherbourg on September 26.	132

FRANCE

1924		
Dec. 8 (550)	<i>From the Ambassador in France (tel.)</i> Report that French Premier believes France's debt to United States should be funded, and that he will submit a plan in the near future for suggestions and criticisms.	132
Dec. 30 (614)	<i>From the Ambassador in France (tel.)</i> Information that Premier Herriot has submitted a memorandum drawn up by Minister of Finance Clémentel, terms of which (including suggested moratorium for 10 years) are certain to be unacceptable to American public opinion. Ambassador's decision to confer with Herriot and Clémentel in effort to secure a more favorable proposal.	133

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24 Dec. 30 (493)	<p><i>To the Ambassador in France (tel.)</i></p> <p>Unfavorable impression in United States caused by press publicity given to statement of so-called balance sheet of France issued by Clémentel (extracts printed). Secretary's assurance to press correspondents that statement was not an official communication to U. S. Government and that French Government had never suggested possible repudiation or cancellation of its debt. Instructions to confer informally with Herriot and Clémentel and make clear U. S. position, removing any misunderstanding in regard to a proposal for partial or entire cancellation of the debt.</p>	134
Dec. 31 (618)	<p><i>From the Ambassador in France (tel.)</i></p> <p>Clémentel's expression of regret over the entirely mistaken impression that his report has given in United States, and assertion that the report (excerpts printed) repeatedly affirmed France's responsibility for her debts.</p>	137
1925 Jan. 1 (1)	<p><i>From the Ambassador in France (tel.)</i></p> <p>Belief that Clémentel's memorandum mentioned in Ambassador's telegram No. 614, December 30, 1924, should be regarded as confidential.</p>	139
Jan. 2 (2)	<p><i>To the Ambassador in France (tel.)</i></p> <p>Probable difficulty of keeping Clémentel's memorandum confidential, as press already has information that France has made an offer which includes a 10-year moratorium followed by payment through 80 years at rate of one-half of 1 percent.</p>	139
Jan. 3 (8)	<p><i>From the Ambassador in France (tel.)</i></p> <p>Translation of Clémentel's memorandum on the state of French opinion relative to France's debt to United States (text printed), containing suggested terms for dealing with debt. Report that Clémentel considers memorandum only a tentative personal and unofficial suggestion.</p>	140
Jan. 15 (46)	<p><i>To the Ambassador in France (tel.)</i></p> <p>Information that Mr. Mellon, Chairman of the World War Foreign Debt Commission, does not consider terms suggested in Clémentel's memorandum satisfactory as a practical basis upon which to begin negotiations.</p>	143
Jan. 23 (79)	<p><i>From the Ambassador in France (tel.)</i></p> <p>Ambassador's concern over trend of events in question of debt settlement and financial crisis which France is facing; suggestion as to advisability of endeavoring to have the Clémentel proposal renewed in an official form in order to pave the way for examination of financial status of France by representatives of Debt Commission prior to possible opening of negotiations.</p>	144
Feb. 6	<p><i>To the Ambassador in France</i></p> <p>Enumeration of difficulties that must be faced and suggestion that some progress might be made if the French Government were to send a delegation to United States to show the exact economic situation and endeavor to bring about a common agreement as to the underlying facts.</p>	145

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Mar. 31 (206)	<i>From the Ambassador in France (tel.)</i> Note from Clémentel, March 28 (text printed), enclosing new text of his memorandum. Ambassador's hope that the new text, in view of conciliatory changes in comparison with first proposal, may serve as a starting point for negotiations.	147
May 5 (184)	<i>To the Ambassador in France (tel.)</i> Instructions to take up with French authorities the question of the French debt, in the belief that the statement communicated to the French Ambassador by Mr. Mellon on December 1, 1924, can appropriately be used as basis for further discussions. Assertion that it is preferable to elicit overture from France, if possible.	150
May 7 (268)	<i>From the Ambassador in France (tel.)</i> Report of conversations with French officials. Opinion of M. Franklin-Bouillon (member of Chamber of Deputies) that certain basic principles must be agreed upon, namely: (1) Great Britain to be paid <i>pari passu</i> with United States; (2) France to be granted a 10-year moratorium; (3) debt to be extinguished in 80 years. Request for Mr. Mellon's views on these principles.	152
May 8 (190)	<i>To the Ambassador in France (tel.)</i> Information that basic principles set forth by M. Franklin-Bouillon are not acceptable. U. S. desire to elicit from French Government an official proposal to the Debt Commission on basis of Mr. Mellon's statement to Ambassador Jusserand, December 1, 1924.	153
May 16 (282)	<i>From the Ambassador in France (tel.)</i> Further explanation of the first principle put forward by M. Franklin-Bouillon. Opinion that an official proposal will be made in the near future.	154
May 18 (203)	<i>To the Ambassador in France (tel.)</i> Secretary's statement regarding debt-funding negotiations (text printed), made for information of newspaper correspondents. (Instructions to repeat to representatives in Belgium, Czechoslovakia, Greece, Italy, Latvia, Rumania, and Yugoslavia.)	155
June 18 (336)	<i>From the Ambassador in France (tel.)</i> Report of conversations with French officials. M. Briand's statement that he would (1) admit publicly France's debt to United States in speech on July 3; (2) in no way link France's payments to United States with German reparation payments; (3) open correspondence with United States regarding details of debt; (4) send small official commission to confer with Debt Commission.	156

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1925 June 23 (235)	<i>To the Ambassador in France (tel.)</i> Desire that suggestion be made, if possible, that in speech on July 3, M. Briand announce publicly the intention of sending a commission to Washington to enter upon debt-funding negotiations.	157
July 3 (362)	<i>From the Ambassador in France (tel.)</i> M. Briand's announcement, in his speech, of French Government's decision to send a commission to United States in near future to negotiate debt settlement.	157
Sept. 16	<i>From the French Ambassador</i> Membership of French mission to United States. Information that mission embarked at Havre on September 16.	157

GREECE

1925 July 31 (237)	<i>To the Chargé in Greece</i> Note to be presented to Greek authorities (text printed), calling attention to fact that no proposal has been received from Greece looking toward settlement or funding of Greek indebtedness to United States.	158
Sept. 5 (406)	<i>From the Chargé in Greece</i> Foreign Office note, August 30 (text printed), stating that the Greek Minister at Washington has been empowered to negotiate with the World War Foreign Debt Commission.	160
Nov. 12	<i>Memorandum by the Chief of the Division of Near Eastern Affairs</i> Greek Minister's informal communication to the Department that new negotiators have been appointed by his Government to take up funding of Greek indebtedness to United States. Mr. Dulles' opinion that any long delay would be unfortunate, and his hope that the representatives will proceed to United States at an early date.	160
Dec. 26	<i>From the Greek Minister</i> Information that the special mission to United States will arrive in Washington on December 28.	162

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1925 Feb. 16 (34)	<i>From the Ambassador in Italy (tel.)</i> Information that Italian Ambassador, soon to sail for United States, will be able to explain attitude of his Government on its war debt to United States.	162
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May 11 (6)	<i>From the Minister in the Kingdom of the Serbs, Croats and Slovenes (tel.)</i> Yugoslav decision to send a mission to Washington in the fall. (Footnote: Postponement of mission's departure until February 1924.)	181
1924 Mar. 18	<i>From the Minister of the Kingdom of the Serbs, Croats and Slovenes</i> Information that delegation will arrive in Washington on March 21, and inquiry as to day and hour when they may be presented to the Secretary. (Footnote: Secretary's reception of delegation on March 22 at 12 o'clock. Information that on April 7 the mission appeared before the Debt Commission and shortly thereafter left the United States.)	181
May 13 (14)	<i>To the Minister in the Kingdom of the Serbs, Croats and Slovenes (tel.)</i> Instructions to present note to Foreign Office (text printed) expressing regret that the Yugoslav mission found itself unable to make any definite proposals, and requesting confirmation of U. S. understanding that Yugoslav Government will take no action with respect to any of its indebtedness which would result in placing United States in a less favorable position as a creditor than that which it now occupies.	182
1925 Feb. 11 (2572)	<i>From the Minister in the Kingdom of the Serbs, Croats and Slovenes</i> Promise of Minister of Finance to study question and reply to U. S. note in a few days and his expectation to make definite proposal in May or June looking to the refunding of the Yugoslav indebtedness to United States.	183
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1925 Mar. 25 (11)	<i>From the Minister in the Kingdom of the Serbs, Croats and Slovenes (tel.)</i> Finance Minister's request to know whether, if he accedes to British refunding demand, the United States will demand a similar reimbursement plan. (Footnote: Instructions to the Minister on April 8 to state U. S. intention to insist on a settlement of Yugoslav indebtedness to United States simultaneously with any settlement made by Yugoslavia with another creditor nation.)	185
May 17 (2680)	<i>From the Minister in the Kingdom of the Serbs, Croats and Slovenes</i> Foreign Office note, May 14 (text printed), giving assurances requested by United States in telegram No. 14, May 13, 1924.	186
Dec. 29	<i>From the Legation of the Kingdom of the Serbs, Croats and Slovenes</i> Personnel of commission appointed by Yugoslav Government to come to Washington. Information that commission will sail from Cherbourg on January 6, 1926.	188

INTEREST OF THE UNITED STATES IN THE DISPOSITION OF THE PROPOSED
LIBERATION BONDS OF THE AUSTRO-HUNGARIAN SUCCESSION STATES

1925 Jan. 21 (75)	<i>From the Ambassador in France (tel.)</i> British memorandum, January 8, to be sent to the Ambassadors' Conference (text printed) proposing that conference reach decision on behalf of the several Governments concerned in regard to certain points raised by the Reparation Commission in connection with disposition of the proposed liberation bonds of the Austro-Hungarian succession states.	189
Jan. 22 (52)	<i>To the Ambassador in France (tel.)</i> Instructions to show telegram No. 75, January 21, to Logan (the U. S. unofficial representative on the Reparation Commission) and request him to cable comments as to any right or interest he may feel United States has in bonds in question.	190
Jan. 27 (83)	<i>From the Ambassador in France (tel.)</i> From Logan: Opinion, in view of considerations enumerated, that United States should take a definite stand. Suggestion that United States take no action in Conference of Ambassadors till March and then request that delivery of bonds be made to Reparation Commission as trustee, with instructions to the Commission to make no disposition of bonds or their proceeds except in agreement with United States.	190
Feb. 6 (108)	<i>From the Chargé in France (tel.)</i> Information that British memorandum has been adopted by Conference, subject to Chargé's reservation that no instructions have been received from United States.	192

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1925 Feb. 7 (76)	<i>To the Chargé in France (tel.)</i> Department's regret that matter of liberation bonds was permitted to be acted upon by Conference pending Department's instructions. Inquiry as to whether it is to be understood that Conference will not reply to Reparation Commission along lines proposed in British memorandum until Chargé has received instructions as to U. S. views regarding British proposal.	192
Feb. 9 (115)	<i>From the Chargé in France (tel.)</i> Information that Conference will not reply to Reparation Commission until Chargé has received instructions.	193
Feb. 17 (126)	<i>From the Ambassador in France (tel.)</i> Draft resolution of British, French, and Italian Governments regarding liberation bonds (text printed).	194
Feb. 24 (99)	<i>To the Ambassador in France (tel.)</i> Instructions to inform Conference of U. S. views on draft resolution, stating that in view of U. S. claims against Austria and Hungary, the United States cannot concur in an instruction to Reparation Commission to hold bonds as trustee for British, French, and Italian Governments alone, but that any final disposition should be made only in agreement with United States.	194
Feb. 24 (100)	<i>To the Ambassador in France (tel.)</i> For Logan: Department's desire for any information available on what may be intended in regard to distribution of C bonds or liberation bonds.	195
Mar. 3 (150)	<i>From the Ambassador in France (tel.)</i> Information that memorandum has been presented to Conference of Ambassadors in pursuance of instructions in telegram No. 99, February 24, and is being reserved for future discussion.	196
Mar. 10 (169)	<i>From the Ambassador in France (tel.)</i> From Logan: Information that C bonds have never been distributed, and understanding that distribution is not now contemplated. Statement that the only information available about possible distribution of liberation bonds is article 2 of the Spa Agreement.	196
May 4 (262)	<i>From the Ambassador in France (tel.)</i> British suggestion to Conference that bonds be delivered to Reparation Commission without requesting it to hold them as trustee for any particular governments, as previously proposed. Opinion of Ambassador and Hill (delegated to assist Logan) that this is unsatisfactory. Request for instructions.	197
May 5 (186)	<i>To the Ambassador in France (tel.)</i> Department's agreement that British suggestion is unsatisfactory, and instructions to insist upon U. S. view as set forth in telegram No. 99, February 24.	198
June 12 (326)	<i>From the Ambassador in France (tel.)</i> Ambassador's opinion that as his role is only that of an observer at the Conference of Ambassadors, it will be difficult to prevent Conference from adopting British proposal, if it wishes.	198

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1925 June 30 (245)	<i>To the Ambassador in France (tel.)</i> Information that Conference of Ambassadors as such has no competency to deal with question unless specifically authorized by the interested Governments, of which United States is one, hence the fact that Ambassador sits as an observer is immaterial.	199
Oct. 30	<i>From the Unofficial Representative on the Reparation Commission</i> French Government's view that it would be preferable in the present circumstances not to call for the issue of liberation bonds.	200
Dec. 7	<i>From the Unofficial Representative on the Reparation Commission</i> Opinion of British Government that it would be preferable not to call for the issue of liberation bonds in the present circumstances.	201

REFUSAL BY THE UNITED STATES TO CONSENT TO THE ADHERENCE OF THE SOVIET UNION TO THE SPITZBERGEN TREATY OF FEBRUARY 9, 1920

1925 Apr. 7	<i>From the French Ambassador</i> Objection of French Government to terminology used to designate the Government of Russia in the U. S. draft agreement handed to the French Ambassador in 1924 relative to Russian adherence to the Spitzbergen Treaty of February 9, 1920. Suggestion of a substitute designation.	201
May 12	<i>To the French Ambassador</i> Draft agreement (text printed) which is believed to be in harmony with the views of the French Government.	203
June 16	<i>From the French Ambassador</i> French opinion that wording in U. S. draft may not be acceptable to all the powers signatory to the Spitzbergen Treaty. Submission of further draft embodying suggested change, with inquiry as to whether it meets U. S. approval.	205
July 3	<i>To the French Ambassador</i> U. S. inability to accept in its entirety the substitute clause suggested in latest French draft. Transmittal of a redraft for consideration.	206
July 13	<i>From the French Ambassador</i> Suggestion of further change in phrasing of draft agreement.	206
Aug. 17	<i>From the French Ambassador</i> Suggestion of slight modification in phrasing of draft agreement.	207
1926 Jan. 7	<i>From the French Chargé</i> French Government's desire for a communication from United States on the question of the proposed adherence of the Soviet Union to the Spitzbergen Treaty.	208
Feb. 2	<i>To the French Ambassador</i> U. S. inability, in view of the terms of the treaty, to see its way to consent to the adherence thereto of the regime functioning in Russia.	208

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ASSENT BY PRESIDENT COOLIDGE TO PROVISIONS IN THE POLISH-SWISS ARBITRATION TREATY FOR INVOKING THE ASSISTANCE OF THE PRESIDENT OF THE UNITED STATES UNDER CERTAIN CONTINGENCIES

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1925 Apr. 15	<p><i>From the Polish Minister</i></p> <p>Inquiry whether it is agreeable to the President of the United States that the Governments of Poland and Switzerland should provide for invoking his assistance in certain circumstances described in articles 3 and 14 (texts printed) of the Polish-Swiss Treaty of Arbitration, signed on March 7.</p> <p>(Footnote: Identic note dated April 16 from the Swiss Minister.)</p>	209
Apr. 18	<p><i>To the Polish Minister</i></p> <p>Assent by the President to the provisions of articles 3 and 14 of the treaty.</p> <p>(Footnote: The same, <i>mutatis mutandis</i>, to the Swiss Minister.)</p>	210

UNSUCCESSFUL EFFORTS TO HAVE AMERICAN CUSTOMS ATTACHÉS ACCORDED DIPLOMATIC STATUS

1925 Mar. 31 (329)	<p><i>From the British Ambassador</i></p> <p>British memorandum (text printed) setting forth views of British Government regarding the act of Congress approved January 13, which provides that customs attachés shall be regularly and officially attached to U. S. diplomatic missions; and explaining British objections to activities of U. S. Treasury representatives in conducting investigations into foreign costs of production.</p>	211
Apr. 2	<p><i>To Certain Diplomatic and Consular Officers</i></p> <p>Data regarding the purpose and the nature of the activities abroad of U. S. customs attachés of the Treasury Department and representatives of the Tariff Commission, presented for information and guidance in case the activities of these agents are questioned by Government to which accredited and the Department gives instructions to take up the matter.</p>	212
Apr. 2 (5038)	<p><i>From the Ambassador in France</i></p> <p>Memorandum prepared by member of the Embassy staff (text printed) presenting arguments against the examination of foreign manufacturers' books by representatives of U. S. Tariff Commission.</p>	223
Apr. 21 (731)	<p><i>To the Minister in Austria</i></p> <p>Instructions to inform the Austrian Government of the appointment of certain customs attachés to the U. S. Legation and to request their recognition by the appropriate authorities; also to explain their duties, making use of information contained in Department's circular instruction of April 2.</p> <p>(Footnote: The same, <i>mutatis mutandis</i>, to Embassies in Belgium, Germany, Italy, and Spain; to Legations in Bulgaria, Denmark, Greece, Hungary, Netherlands, Norway, Poland, Portugal, Rumania, the Kingdom of the Serbs, Croats and Slovenes; and on May 5 to Legations in China and Finland.)</p>	227

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1925 Apr. 21 (1475)	<p><i>To the Ambassador in France</i> Instructions to inform French Government regarding the appointment of customs attachés and U. S. desire for their recognition; also to furnish a memorandum giving the detailed description of their activities contained in Department's circular of April 2, and to explain that procedure thus described is the result of an effort to meet views of the French Government as expressed in a note from the French Ambassador dated May 26, 1924 (text printed), and at the same time to carry out provisions of the Tariff Act of 1922. Brief comment on memorandum transmitted in Ambassador's despatch No. 5038, April 2.</p>	230
Apr. 21 (123)	<p><i>To the Minister in Sweden</i> Instructions to inform Swedish Government regarding the appointment of customs attachés and U. S. desire for their recognition; also to furnish a memorandum giving the detailed description of their activities contained in Department's circular of April 2, and to explain that procedure thus described is the result of an effort to meet the wishes of the Swedish Government as expressed in recent representations and at the same time to carry out provisions of the Tariff Act of 1922. (Footnote: The same, <i>mutatis mutandis</i>, to the Legation in Switzerland, April 18.)</p>	233
May 4	<p><i>To the British Ambassador</i> Hope that the British objections to the activities of U. S. customs attachés will be removed upon receipt of complete information concerning their purpose and the method of procedure to be used in the future, as contained in instructions to the American Ambassador in London.</p>	233
June 6 (595)	<p><i>From the Ambassador in Spain</i> Information that Spanish Government, while not according diplomatic status to the customs attachés, is willing to grant to them, upon request, such customs facilities as are usually extended to members of diplomatic missions.</p>	234
June 16 (799)	<p><i>From the Chargé in Rumania</i> Information that Rumanian Government has no objections to advance in connection with the appointment of customs attachés to American diplomatic missions.</p>	235
June 17 (240)	<p><i>From the Ambassador in Belgium</i> Belgian inability to recognize diplomatic status of customs attachés or to grant them permission to conduct investigations of costs of production.</p>	235
June 23 (485)	<p><i>From the Chargé in Italy</i> Inability of Italian Government to accede to U. S. request regarding customs attachés.</p>	236
June 26 (199)	<p><i>To the Ambassador in Great Britain (tel.)</i> Department's suggestion that Ambassador point out to Sir Austen Chamberlain certain considerations which the British commercial counselor in Washington believes may influence the Foreign Office to waive its objections to cost-of-production investigations by customs attachés.</p>	237

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July 2 (2733)	<i>From the Minister in the Kingdom of the Serbs, Croats and Slovenes</i> Decision of Yugoslav Government to wait until one or more other Governments have recognized diplomatic status of customs attachés before reaching final decision.	238
July 10 (324)	<i>To the Ambassador in Italy</i> U. S. understanding that Italian Government, while unable to accord diplomatic status to customs attachés, does not intend to prohibit them from performing in Italy their duties under the Tariff Act of 1922. Instructions to make informal inquiries to determine if understanding is correct.	240
July 11 (213)	<i>From the Ambassador in Great Britain (tel.)</i> British refusal of diplomatic status to customs attachés and maintenance of objections in principle to cost-of-production investigations.	240
July 18 (680)	<i>From the Minister in Hungary</i> Foreign Office recognition of diplomatic status of U. S. customs attaché.	241
July 22 (394)	<i>From the Chargé in France (tel.)</i> French inability to grant diplomatic status to customs attachés.	241
July 23 (529)	<i>From the Chargé in Sweden</i> Foreign Office note, July 21 (text printed), expressing Swedish Government's regret that it cannot give a favorable reply to U. S. request.	241
July 31 (775)	<i>From the Minister in Austria</i> Résumé of Minister's efforts to obtain consent of Austrian officials to accord diplomatic status to U. S. customs attachés. Request to be informed if any other nation has taken favorable action in the matter. (Footnote: Notification to the Minister on August 20 that Hungary and Rumania had taken favorable action. Instruction on December 23 that Department considers informal statements of Foreign Office officials reported in despatch No. 775 as equivalent to a refusal of diplomatic status.	243
Aug. 8 (551)	<i>From the Chargé in Italy</i> Information that customs officials will not be prohibited from carrying out their duties in Italy, but that any inspections of business concerns will depend upon acquiescence of the owners.	246
Aug. 11 (936)	<i>From the Minister in Denmark</i> Danish Government's inability to conform to U. S. wishes.	246
Aug. 19 (659)	<i>From the Minister in Norway</i> Information that Norwegian Government has declined to accede to Department's request.	247
Aug. 20 (198)	<i>From the Ambassador in Germany</i> German Government's inability to accord recognition to customs attachés as requested by United States.	248

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1925 Sept. 22 (24)	<i>From the Consul General at Hongkong</i> Withdrawal by the Colonial Government of Hongkong of the provisional recognition which had been accorded to the assistant customs attaché at that port. (Footnote: Information that on May 5 the consul in charge at Hongkong had been instructed to notify local authorities of the appointment of an assistant customs attaché.)	248
Sept. 23 (88)	<i>From the Minister in Poland (tel.)</i> Negative reply of Foreign Office to U. S. request.	249
Oct. 6 (428)	<i>From the Minister in Greece</i> Hellenic Government's regret at inability to accede to U. S. request.	249
Oct. 7 (1208)	<i>From the Minister in Portugal</i> Inability of Portuguese Government to comply with U. S. wishes. Minister's request for instructions.	249
Nov. 4 (597)	<i>From the Minister in Switzerland</i> Swiss Government's inability to accord diplomatic status to customs representatives.	250
Dec. 24	<i>To Certain Diplomatic and Consular Officers</i> Inadvisability of further efforts to secure recognition of diplomatic status for customs attachés. Information that Department's circular instruction of April 2 remains in effect; also that in those countries where the attachés have been recognized as members of the diplomatic mission, they will continue to be so regarded pending a modification of the act of Congress of January 13.	252
1926 Feb. 27 (149)	<i>From the Minister in Finland</i> Finland's refusal to accord diplomatic status to customs attachés.	254

INTERNATIONAL CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING
TO BILLS OF LADING

1924 Aug. 25	<i>International Convention</i> For the unification of certain rules relating to bills of lading.	254
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CONVENTION BETWEEN THE UNITED STATES AND OTHER POWERS FOR THE
PROTECTION OF INDUSTRIAL PROPERTY, SIGNED NOVEMBER 6, 1925

1925 Jan. 7 (3474)	<i>From the Netherlands Minister</i> Invitation to United States to be represented at the International Conference for the Protection of Industrial Property, to be opened at The Hague on October 8.	268
Mar. 3	<i>To the Netherlands Minister</i> U. S. acceptance of invitation extended by the Netherlands Government and appointment of delegates to attend conference.	268

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1925 Nov. 6	<i>Convention Between the United States and Other Powers</i> For the protection of industrial property.	269

ACCEPTANCE BY THE UNITED STATES OF INVITATION TO ATTEND THE THIRD INTERNATIONAL TELEGRAPH CONFERENCE AT PARIS IN 1925

1925 July 17	<i>To the French Ambassador</i> Views of U. S. Government that subjects to be discussed at the International Telegraph Conference in Paris should not include questions relating to radio, as such questions will be considered at the International Radiotelegraph Conference to be held in Washington. U. S. willingness, in response to French inquiry, to postpone the Washington conference till 1926.	287
Aug. 17	<i>To the French Ambassador</i> U. S. acceptance of French Government's invitation to conference to be held in Paris September 1. List of U. S. delegates and technical advisers.	295
Aug. 23	<i>From the French Ambassador</i> Information that the sole program of the Paris conference is to consider additions and amendments which the telegraphic office desires to have made in the service regulations and rates in force. French Government's doubt that the Radiotelegraph Conference may be called with advantage before 1927.	296

EXTENSION OF INVITATIONS TO THE THIRD INTERNATIONAL RADIOTELEGRAPH CONFERENCE AT WASHINGTON IN 1927

1925 Aug. 18 (263)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to extend invitation (text printed) to Government to which accredited to participate in a radiotelegraph conference to be held at Washington; also to state subjects which U. S. Government believes should be taken up at the conference. Instructions to repeat invitation to the American missions in various European countries. (Footnote: Information regarding invitations to certain other European countries and to Latin American countries.)	297
Sept. 19 (80)	<i>To the Chargé in Switzerland (tel.)</i> Instructions to inform Radiotelegraph Section of International Telegraph Bureau that United States desires to obtain whatever additions or modifications to the International Radiotelegraph Convention that the various Governments desire to have considered at the conference, and to obtain propositions on certain subjects to be discussed at conference. Suggestion that propositions be submitted by February 1, 1926.	299
Sept. 24 (121)	<i>From the Chargé in Switzerland (tel.)</i> List of points in connection with Department's instruction No. 80, September 19, on which the Director of Radiotelegraph requests information. Director's opinion that propositions to be submitted by the governments could not be printed and distributed before May 31, 1926.	300

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1925 Sept. 29 (83)	<i>To the Chargé in Switzerland (tel.)</i> Instructions to explain fully U. S. desire to hold conference during fiscal year 1926, and to ascertain shortest time in which Bureau can print and distribute propositions; also to ask Bureau to suspend action temporarily on Department's telegram No. 80, September 19.	301
1926 Mar. 15	<i>To Certain Diplomatic Officers</i> Postponement of the conference to a later date because of amount of time required to obtain propositions of the various governments. (Footnote: Further instruction, February 11, 1927, containing information that conference will be postponed till fall of 1927.)	301

OPPOSITION OF THE DEPARTMENT OF STATE TO PARTICIPATION BY THE LEAGUE
OF NATIONS IN INTERNATIONAL CONFERENCES OF AMERICAN STATES

1925 Jan. 15 (966)	<i>To the Ambassador in Brazil</i> Department's views, to be transmitted informally to Brazilian Foreign Minister, that participation of representatives of the League of Nations in pan-American conferences would bring viewpoints and policies of states which are not American states and thus alter the nature of the conferences.	302
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THE TACNA-ARICA QUESTION: THE ARBITRATOR'S AWARD AND THE ESTABLISH-
MENT OF THE PLEBISCITARY COMMISSION

1925 Mar. 5 (7)	<i>To the Ambassador in Chile (tel.)</i> Information that the President has signed the Tacna-Arica decision and that a summary will be cabled, copy of which is to be handed to the Foreign Minister. (Footnote: The same to the Ambassador in Peru.)	304
Mar. 4	<i>Opinion and Award of the Arbitrator</i> In the matter of the arbitration between the Republic of Chile and the Republic of Peru with respect to the unfulfilled provisions of the treaty of peace of October 20, 1883, under the protocol and supplementary act signed at Washington, July 20, 1922.	305
Mar. 23 (12)	<i>To the Ambassador in Chile (tel.)</i> Information that Gen. John J. Pershing has been appointed President of the Plebiscitary Commission. (Footnotes: The same, <i>mutatis mutandis</i> , to the Ambassador in Peru; information, March 27, to the Ambassadors in Chile and Peru of appointment of Gen. Jay J. Morrow as American member of the Special Boundary Commission.)	348
Mar. 26 (14)	<i>From the Chilean Ambassador</i> Designation by the Chilean Government of Señor Don Agustín Edwards as member of the Plebiscitary Commission.	348

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1925 Apr. 2	<p><i>From the Peruvian Ambassador</i></p> <p>Memorial of the Peruvian Commission of Defense (text printed) submitting views of the Peruvian Government in regard to the Award of the Arbitrator, informing the Arbitrator of certain acts said to have been perpetrated against the Peruvian inhabitants of Tacna and Arica since the date of the Award, and requesting certain guarantees in regard to the conduct of the plebiscite decreed under the Award.</p>	348
Apr. 9	<p><i>To the Peruvian Ambassador</i></p> <p>Ruling and observations of the Arbitrator (text printed) on the questions presented in the Peruvian memorial of April 2, emphasizing that the Award is final and without appeal and that the Plebiscitary Commission shall have complete control over the plebiscite.</p>	355
Apr. 10 (41)	<p><i>From the Ambassador in Peru (tel.)</i></p> <p>Assertion by an informant that Peruvian people and Congress oppose participation in the plebiscite, in view of the Arbitrator's ruling of April 9; that Government officials, however, desire participation; and that an American assurance of protection from outrage in the disputed region during voting would have a beneficial effect on both popular and governmental opinion.</p>	361
Apr. 14 (29)	<p><i>To the Ambassador in Peru (tel.)</i></p> <p>Declaration that the Arbitrator could not state that one side will be protected from so-called atrocities on the part of the other; that the Award provides amply for consideration by the Plebiscitary Commission of all questions involved in the voting; and that Peru might well expedite constitution of the Commission by appointment of a Peruvian member.</p>	362
May 8	<p><i>Memorandum by the Chief of the Division of Latin American Affairs</i></p> <p>Bolivian Minister's inquiry whether U. S. Government would be prepared, after the holding of the Tacna-Arica plebiscite, to use its good offices to bring about a settlement of the question of a revision of the Chilean-Bolivian Treaty of 1904 by which Bolivia would obtain a seaport. Department's inability to state at present what its attitude will be at a future time.</p>	362
June 18	<p><i>From the Peruvian Ambassador</i></p> <p>Communication to President Coolidge (text printed) naming Mr. Manuel de Freyre Santander as the Peruvian member of the Plebiscitary Commission, and stating certain opinions of the Peruvian Government which are not in concurrence with the ruling and observations of the Arbitrator.</p>	363
June 30	<p><i>To the Peruvian Ambassador</i></p> <p>Communication from President Coolidge, June 29 (text printed), expressing satisfaction over the appointment of a Peruvian member of the Commission, and stating that the Arbitrator adheres to his ruling of April 9, which leaves nothing to be said in reply to the Peruvian communication of June 18.</p>	368
Aug. 11	<p><i>To the Consul at Arica (tel.)</i></p> <p>Instructions to report immediately concerning alleged restrictions by Chilean authorities on movements of Peruvians in Tacna and Arica; also to report details of Ordoñez incident.</p>	369

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Aug. 14	<i>From the Consul at Arica (tel.)</i> From Pershing: Information that the restrictions referred to are embodied in two decrees regulating travel; that the Ordoñez incident was regrettable but not important; that there is no doubt of Chilean oppression and intimidation of Peruvians and that under existing conditions a fair plebiscite is impossible.	370
Aug. 14	<i>To the Consul at Arica (tel.)</i> For Pershing: Opinion that the two decrees regulating travel violate the decision of the Arbitrator. View that Plebiscitary Commission has power to decide whether any act of Chile's administration of Tacna and Arica would obstruct fair and free vote, and inquiry whether Pershing wishes Secretary to take any action before matter is decided by Commission.	371
Aug. 16	<i>From the President of the Plebiscitary Commission (tel.)</i> Pershing's request that Department make no representations at present, and hope that it will take no action except upon his request, as the problem is not one that can be hurried.	372
Aug. 18	<i>To the Consul at Arica (tel.)</i> For Pershing: Secretary's intention to follow Pershing's suggestions; his summary of conversation with Chilean Ambassador concerning situation in Tacna and Arica.	373
Aug. 20 (77)	<i>From the Ambassador in Chile (tel.)</i> Ambassador's inquiry if he should communicate to Pershing certain information regarding matters bearing on the plebiscite.	374
Aug. 21 (49)	<i>To the Ambassador in Chile (tel.)</i> Instructions not to forward any information direct to the Plebiscitary Commission.	374
Sept. 6	<i>From the Consul at Arica (tel.)</i> From Pershing: Telegram to the Chilean Commissioner (text printed) advising that situation in Tacna is becoming intolerable and requesting that Chilean Government take immediate action. Suggestion that representations be made to Presidents of Chile and Peru.	375
Sept. 10	<i>To the Consul at Arica (tel.)</i> For Pershing: Transmittal of report of Ambassador in Chile (text printed) regarding Chilean complaints as to Peruvian activities and alleged bids for U. S. sympathy; and efforts of President of Chile to maintain order and assure fair plebiscite. Secretary's inquiry if Pershing still desires that representations be made to Presidents of Chile and Peru.	375
Sept. 11 (55)	<i>To the Ambassador in Chile (tel.)</i> Instructions to make clear to Americans in Chile U. S. hope that they will maintain an absolutely neutral attitude in the Tacna-Arica controversy. (Repeated <i>mutatis mutandis</i> to Peru.)	377
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Sept. 18	<i>To the Consul at Arica (tel.)</i> For Pershing: Department's appreciation of Pershing's efforts to arrange for free and fair plebiscite and hope that Chilean authorities will realize importance of such a plebiscite.	378

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Oct. 12	<i>To the Consul at Arica (tel.)</i> For Pershing: Chilean Ambassador's suggestion that Chilean troops be confined to barracks instead of withdrawn from provinces, because of difficulty of withdrawal in present political situation.	395
Oct. 14	<i>From the Consul at Arica (tel.)</i> From Pershing: Assertion that Chilean Ambassador's suggestion is entirely inadequate to meet situation; that the presence of troops in the provinces is a menace to a fair plebiscite. Opinion that demands contained in resolution must be regarded as minimum and any material modification cannot be accepted.	397
Oct. 17	<i>To the Consul at Arica (tel.)</i> For Pershing: Emphasis on great importance of carrying out plebiscite, of not withdrawing from plebiscite, and of taking every reasonable means to prevent either Chile or Peru from withdrawing. Opinion that careful consideration should be given any reasonable suggestion of Chilean Government.	399

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Nov. 20	<i>To the Consul at Arica (tel.)</i> For Pershing: Résumé of correspondence regarding U. S. policy on question of good offices in settling Tacna-Arica controversy. Inquiry if there is any way Pershing might ascertain what Peru's attitude might be. (Footnote: Departure of Pershing from Arica on January 27, 1926, for temporary stay in United States.)	414
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Nov. 23	<i>To the Consul at Arica (tel.)</i> For Pershing: Suggestion that election rules and regulations be enacted as soon as possible, but that notification be given that compliance with decisions of Commission is expected.	416
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Dec. 3 (78)	<i>To the Ambassador in Chile (tel.)</i> Expression of regret that Chilean press is continuing to abuse Pershing and impugn motives of United States. Information that Secretary has given no statements to the press. Request for any suggestions Ambassador may care to make.	424
Dec. 5	<i>From the Consul at Arica (tel.)</i> From Pershing: Intention to present a motion to the Commission fixing tentatively the schedule of dates for the plebiscite, which will be the same as previously suggested except that it will be necessary to postpone all dates two weeks.	425
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Dec. 12 (142)	<i>From the Ambassador in Chile (tel.)</i> Public statement of Chilean Foreign Minister (text printed) announcing Chile's exercise of the right of appeal, owing to failure of the Commission to fix dates of plebiscite earlier.	428
Undated [Rec'd Dec. 17]	<i>From the President of the Plebiscitary Commission (tel.)</i> For the Arbitrator: Resolution of the Plebiscitary Commission (text printed) certifying to the Arbitrator Chile's dissenting opinion and appeal from the action of the Commission on December 9, and authorizing transmittal to the Arbitrator of certain related documents. (Footnote: Information that Commission's resolution of December 9 fixed date of plebiscite for April 15, 1926, after period of one month's registration, February 15–March 15; that a resolution adopted on January 12, 1926, postponed all dates 15 days.)	428

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1925 Dec. 22	<i>To the Consul at Arica (tel.)</i> For Pershing: Arbitrator's order that, until further determination by him, the Commission shall proceed with performance of its duties under the opinion and award of March 4. Secretary's opinion that appeal period should be devoted to work of preparatory nature necessary to avoid loss of time should the decision of the Arbitrator affirm the resolution of December 9.	431

BOUNDARY DISPUTES

COLOMBIA AND NICARAGUA

1925 Mar. 21 (212)	<i>To the Chargé in Nicaragua</i> U. S. note to Nicaragua (text printed) stating Department's decision not to accede to Nicaragua's request to recommend to Colombia an arbitration dealing solely with the ownership of the San Andrés Archipelago, as the Mosquito Coast and the Corn Islands are also involved in the dispute. Department's suggestion that controversy might be settled on the basis proposed by Colombia, which would recognize sovereignty of Nicaragua over the Mosquito Coast and Corn Islands and sovereignty of Colombia over the San Andrés Archipelago.	431
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Sept. 24 (831)	<i>To the Minister in Colombia</i> Nicaraguan Minister's assertion of his Government's desire to submit question to the mediation of United States. Instructions to discuss matter informally with Foreign Minister, if deemed advisable, and ascertain views of Colombian Government as to possible U. S. mediation with a view to ultimate arbitration.	434
Nov. 19 (769)	<i>From the Minister in Colombia</i> Information that Foreign Minister accepted representations in friendly spirit but has not subsequently commented upon them.	435

COLOMBIA AND PERU

1925 Jan. 7 (1)	<i>To the Ambassador in Brazil (tel.)</i> Transmittal of Colombian proposal for settlement of boundary question between Colombia and Brazil, on condition that Brazil withdraw its memorandum protesting against Peru's ratification of the Colombian-Peruvian boundary treaty of 1922. Instructions to state as personal opinion, in case matter should come up for discussion with Brazilian authorities, that United States might be disposed to use its good offices if Brazil should express readiness to negotiate settlement on basis suggested.	436
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Jan. 23 (5)	<i>To the Ambassador in Brazil (tel.)</i> Information as to Colombian willingness to accept settlement of Colombian-Brazilian boundary along the Apaporis-Tabatinga line on certain conditions. U. S. desire for reply on the Colombian proposal transmitted on January 7 before communicating this information officially to Brazil.	438
Jan. 24 (7)	<i>From the Ambassador in Brazil (tel.)</i> Assertion that the stumbling block appears to be the embarrassment that would be occasioned Brazil by having formally to withdraw her opposition to Peru's ratification of the Peruvian-Colombian boundary treaty.	438
Jan. 26 (6)	<i>To the Ambassador in Brazil (tel.)</i> Department's opinion that an agreement with Colombia on the Apaporis-Tabatinga line would remove cause for Brazil's opposition to the treaty. Suggestion of one document to cover all points of difficulty, namely, a procès-verbal of a meeting of the Brazilian Chargé, the Colombian Minister, and the Peruvian Ambassador in the Secretary's office.	439
Feb. 6 (10)	<i>From the Ambassador in Brazil (tel.)</i> Foreign Office acceptance of the Apaporis-Tabatinga line as the boundary between Brazil and Colombia.	440
Feb. 21 (15)	<i>To the Ambassador in Brazil (tel.)</i> Draft of proposed procès-verbal of a meeting to be held in the Secretary's office (text printed); instructions to express hope that Foreign Minister will instruct Brazilian Chargé to attend the meeting and sign procès-verbal.	440
Feb. 21 (2)	<i>To the Ambassador in Peru (tel.)</i> Transmittal of draft of procès-verbal, and instructions to express hope that Peruvian Ambassador will receive instructions to take part in proposed meeting. (Footnote: Similar telegram to the Minister in Colombia.)	443
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Feb. 24 (4)	<i>From the Ambassador in Peru (tel.)</i> Foreign Minister's statement that it is impossible to take action until he can hear from Brazilian Government.	444
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Feb. 25 (3)	<i>To the Ambassador in Peru (tel.)</i> Information that Colombian Minister has received instructions to sign procès-verbal. Instructions to endeavor to have Peruvian Ambassador authorized to sign without delay.	445
Feb. 26 (18)	<i>From the Ambassador in Brazil (tel.)</i> Information from Foreign Office that Brazilian Chargé has been instructed by telegraph to sign procès-verbal.	446
Feb. 26 (5)	<i>From the Ambassador in Peru (tel.)</i> Foreign Minister's inability to instruct Peruvian Ambassador until he has heard from Brazilian Government.	446
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Mar. 4	<i>To the Peruvian Ambassador</i> Transmittal of copies of procès-verbal (text printed) of a meeting between the Secretary of State, the Peruvian Ambassador, the Colombian Minister, and the Brazilian Chargé, March 4, 1925. (Similar notes to the Colombian Minister and the Brazilian Chargé.)	460
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Oct. 30 (62)	<i>To the Ambassador in Peru (tel.)</i> Information that Colombia has ratified Colombian-Peruvian boundary treaty; indication that similar action by Peru would be welcome. (Footnote: First paragraph sent also to Brazil.)	468
Undated	<i>Memorandum by the Secretary of State of a Conversation With the Colombian Minister, October 31, 1925</i> Ecuadoran protest to United States that Colombian-Peruvian treaty would make it more difficult for Ecuador to agree with Peru as to the boundary between those two countries. Secretary's inability to see how treaty could affect Ecuadoran interests or to offer U. S. good offices unless requested by all countries involved.	468
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COSTA RICA AND PANAMA

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Feb. 6 (17)	<i>To the Minister in Panama (tel.)</i> U. S. note to Foreign Minister (text printed) declaring U. S. willingness to await for a reasonable time the outcome of such direct negotiations as Panama may undertake with Costa Rica; readiness to proceed in January 1926 with the demarcation of the boundary line, if no agreement has been reached by that time.	474
Apr. 9 (46)	<i>From the Minister in Panama (tel.)</i> Foreign Minister's statement that Panama is willing to enter into direct negotiations with Costa Rica only to settle indemnity question. (Repeated to Costa Rica.) (Footnote: Minister's report, June 25, of appointment of Julio Fabrega as Panaman confidential agent to go to Costa Rica to solve the boundary controversy.)	476
Sept. 22 (16)	<i>To the Minister in Costa Rica (tel.)</i> Instructions to use good offices informally with the President to further success of the negotiations. (Footnote: Arrival of Señor Fabrega in San José on September 18.)	476
Nov. 10 (21)	<i>To the Minister in Costa Rica (tel.)</i> Information concerning a compromise settlement of boundary line which Panama might accept. Inquiry as to what solution, in Minister's opinion, would be acceptable to Costa Rica, if Panaman proposal is not. (Footnote: Repeated to Panama.)	477
Nov. 11 (22)	<i>To the Minister in Costa Rica (tel.)</i> Information as to minimum amount acceptable to Panama, including straightening of the boundary line. (Footnote: Repeated, except for first paragraph, to Panama.)	478
Dec. 11 (82)	<i>To the Minister in Panama (tel.)</i> Costa Rican Minister's opinion that he might be able to induce Costa Rica to accept a solution on basis of the convention providing for demarcation of the boundary according to the award, the matter of indemnity to be submitted to arbitration. Instructions to discuss the matter informally with President and Foreign Minister to determine if some such arrangement could be agreed upon. (Footnote: Repeated to Costa Rica.)	479
Dec. 18 (121)	<i>From the Chargé in Panama (tel.)</i> Foreign Minister's statement of Panama's unwillingness to accept Department's suggestion at present, as they still hope Costa Rica will accept Fabrega's proposition for straightening the boundary line.	480
Dec. 18 (54)	<i>From the Minister in Costa Rica (tel.)</i> Information that Panaman proposal was rejected by Costa Rica but that counterproposal has been submitted to Panaman representative.	481
Dec. 27 (123)	<i>From the Chargé in Panama (tel.)</i> Fabrega's rejection of Costa Rican proposal and submission of a counterproposal for rectification of the boundary.	482

GENERAL

BOUNDARY DISPUTES—Continued

COSTA RICA AND PANAMA—continued

Date and number	Subject	Page
1925 Dec. 29 (29)	<i>To the Minister in Costa Rica (tel.)</i> Instructions to endeavor to find out whether Costa Rica has accepted counterproposal of Fabrega for rectification of the boundary or has agreed to put off further negotiations till May.	483
1926 Jan. 7 (2)	<i>From the Minister in Costa Rica (tel.)</i> Costa Rica's rejection of Fabrega's counterproposal and of his proposal to postpone the negotiations till May.	483

EXTENSION OF THE SOVEREIGNTY OF THE UNITED STATES OVER SWAIN'S ISLAND
BY JOINT RESOLUTION OF CONGRESS, APPROVED MARCH 4, 1925

1924 May 22	<i>To President Coolidge</i> Résumé of U. S. Government's relation to Swain's Island for more than 50 years; discussion of status of the island so far as jurisdiction of the United States is concerned; draft of proposed joint resolution of Congress (text printed) extending U. S. sovereignty over Swain's Island and making the island a part of American Samoa. (Footnote: Approval by Congress of the joint resolution on March 4, 1925.)	483
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ALBANIA

RECOGNITION BY THE UNITED STATES OF THE GOVERNMENT OF AHMED ZOGU

1925 Jan. 5	<i>From the Minister in Albania (tel.)</i> Request for instructions as to attitude to be assumed toward the government of Ahmed Zogu, in view of his having been sentenced as one of those responsible for the murder of Coleman and De Long, American citizens, in 1924.	489
Jan. 8 (3)	<i>From the Minister in Albania (tel.)</i> Report on possible attitude of other governments toward the government of Ahmed Zogu.	489
Jan. 10 (2)	<i>To the Minister in Albania (tel.)</i> Information that Department would not be disposed to withhold recognition because of the charges that Zogu was implicated in the killing of Coleman and De Long. Instructions to maintain informal relations with authorities pending further instructions.	490
Jan. 14 (4)	<i>From the Minister in Albania (tel.)</i> Report that in order to clear Zogu officially, the case of the murder of Coleman and De Long is to be reopened.	490
Jan. 22 (3)	<i>To the Minister in Albania (tel.)</i> Information that if Minister can secure definite assurances from Zogu that the prosecution will be pressed, Department would consider sending early instructions to accord recognition. Inquiry as to what definite action has been taken by other powers.	491

ALBANIA

RECOGNITION BY THE UNITED STATES OF THE GOVERNMENT OF AHMED ZOGU—
Continued

Date and number	Subject	Page
1925 Jan. 25 (6)	<i>From the Minister in Albania (tel.)</i> Report that the Assembly gave vote of confidence January 19; that all but the American representative sent acknowledgment in reply to official notification of establishment of the republic, which was proclaimed January 21.	491
Jan. 29 (8)	<i>From the Minister in Albania (tel.)</i> Assertion by Zogu's government that every possible measure has been taken for the arrest and exemplary punishment of those responsible for the murders.	492
Jan. 31 (5)	<i>To the Minister in Albania (tel.)</i> Authorization to extend recognition to the new regime and to acknowledge receipt of official notification of the establishment of the republic.	492
Feb. 3 (10)	<i>From the Minister in Albania (tel.)</i> Compliance with Department's instructions of January 31.	492

RENEWED REPRESENTATIONS BY THE UNITED STATES FOR EQUITABLE TREATMENT
OF AMERICAN OIL INTERESTS IN ALBANIA

1925 Feb. 4 (6)	<i>To the Minister in Albania (tel.)</i> Information that Standard Oil Co. of New York has received word of renewed activity on the part of the Anglo-Persian Oil Co. in Albania and is disposed to send a representative to Albania if the situation warrants. Instructions to report briefly.	493
Feb. 4 (11)	<i>From the Minister in Albania (tel.)</i> Report of interview with President and Foreign Minister, who promised to give a statement on February 7 defining Albanian attitude regarding oil concessions.	493
Feb. 5 (12)	<i>From the Minister in Albania (tel.)</i> Report that Yugoslav Chargé has urged postponement of decision on oil concession until assembly of the new Parliament.	494
Feb. 10 (15)	<i>From the Chargé in Albania (tel.)</i> Foreign Minister's announcement that two projects to facilitate entry of foreign capital will soon be presented to the Assembly.	494
Feb. 10 (7)	<i>To the Minister in Albania (tel.)</i> Information that Mr. Sheffield, Standard Oil representative, is to arrive in Tirana about February 28.	494
Feb. 11 (16)	<i>From the Chargé in Albania (tel.)</i> Foreign Minister's assertion that if the Assembly remains in session about 20 days more, the granting of the oil concession will be considered.	495
Feb. 13 (8)	<i>To the Chargé in Albania (tel.)</i> Instructions to make representations, if the situation justifies, to the Albanian Government for the protection of American companies interested in the granting of oil concessions.	495

ALBANIA

RENEWED REPRESENTATIONS BY THE UNITED STATES FOR EQUITABLE TREATMENT
OF AMERICAN OIL INTERESTS—Continued

Date and number	Subject	Page
1925		
Feb. 13 (9)	<i>To the Chargé in Albania (tel.)</i> Message of Standard Oil Co. to Albanian Foreign Minister (text printed) stating that reports that the company is no longer interested in obtaining an oil concession in Albania is erroneous.	496
Feb. 13 (18)	<i>From the Chargé in Albania (tel.)</i> Representations on behalf of American interests, because of critical situation in regard to the oil concession question. Italian and Servian protests to Albanian Government. Request for instructions to govern further steps.	496
Feb. 16 (10)	<i>To the Chargé in Albania (tel.)</i> Department's approval of representations and desire that matter be followed up vigorously.	497
Feb. 16 (20)	<i>From the Chargé in Albania (tel.)</i> Albanian Assembly's ratification of the Anglo-Persian concession.	497
Feb. 23 (36)	<i>From the Ambassador in Italy (tel.)</i> Ambassador's belief, in view of British-Italian negotiations, that Italy may be granted one-fourth of the Albanian concession and that Anglo-Persian Co. may thus secure hold on Italian oil.	498
Feb. 26 (39)	<i>From the Ambassador in Italy (tel.)</i> Intimation by a Foreign Office official that Italy would not be satisfied with a share in the Anglo-Persian concession in Albania but wished a distinct and separate concession.	498
Mar. 2 (13)	<i>To the Chargé in Albania (tel.)</i> Instructions to consult with Standard Oil representative (shortly to arrive in Tirana) and to communicate his views of the situation, with Chargé's comments, to the Department.	499
Mar. 6 (27)	<i>From the Chargé in Albania (tel.)</i> Mr. Sheffield's view that his company should regard the petroleum situation as an accomplished fact and proceed to investigate desirability of making further proposals. Report of rumors that Italians have already formed an agreement with the Anglo-Persian Co.	499
Mar. 10	<i>From the Vice President of the Standard Oil Co. of New York</i> Cable from Mr. Sheffield, March 4 (text printed), reporting Anglo-Persian contract for concession and reporting his own efforts to learn where Anglo-Persian is to choose areas and whether there is a chance for similar concession to Standard Oil Co.	500
Mar. 10 (29)	<i>From the Chargé in Albania (tel.)</i> Foreign Minister's reiteration of assurances given in 1922 for most-favored-nation treatment to American interests in Albania. Information given to Standard Oil representative, upon his proposal for second choice as to oil areas, that Albania has practically agreed to give Italians second choice.	500
Mar. 11 (30)	<i>From the Chargé in Albania (tel.)</i> Decree granting extensive rights to Italy. Albanian willingness to grant third choice to American interests, should they accept at once. Chargé's opinion that U. S. position regarding equality of opportunity for American interests, as set forth in 1923, had not been met by Albania.	501

ALBANIA

RENEWED REPRESENTATIONS BY THE UNITED STATES FOR EQUITABLE
TREATMENT OF AMERICAN OIL INTERESTS—Continued

Date and number	Subject	Page
1925 Mar. 17 (15)	<i>To the Chargé in Albania (tel.)</i> Instructions to inform Albanian Government that situation is unsatisfactory, and to endeavor to obtain text of Italian agreement with Albania concerning the period within which the second choice of oil areas is to be made.	502
Mar. 22 (32)	<i>From the Chargé in Albania (tel.)</i> Information that Albanian decree provides for Italian choice within 2 months of 50,000 hectares, from which 30,000 for exploitation may be chosen within research period of 3 years, with possible extension.	503
Mar. 26 (54)	<i>From the Ambassador in Italy (tel.)</i> Opinion that inasmuch as the Italian Government has more interest in the political and strategic situation than in petroleum, the American interests might well go ahead and take their chances with third choice.	503
Mar. 30 (419)	<i>From the Chargé in Albania</i> Representations as authorized by Department's No. 15 of March 17 concerning the state of Albanian-American relations; Albanian reply, March 23 (text printed). Chargé's assertion that Foreign Minister's attitude and informal comments, as well as formal reply, indicated that he did not understand seriousness of the situation.	504
Mar. 31 (20)	<i>To the Chargé in Albania (tel.)</i> Report from Standard Oil Co. that the granting of third choice has been conditioned upon the payment of a contribution of between \$20,000 and \$40,000 by the company. Instructions to inform Albanian Government orally of U. S. failure to understand the proposal of such a condition.	507
June 1 (453)	<i>From the Chargé in Albania</i> Report on recent developments in the oil concession situation. Information that Standard Oil representative is continuing his negotiations to obtain a third choice of territory and that his proposals have been accepted by all Cabinet members except the Foreign Minister.	507
July 8 (45)	<i>From the Chargé in Albania (tel.)</i> Information that Cabinet has approved concession proposed by Standard Oil Co. and referred it to Parliament.	509
July 13 (473)	<i>From the Chargé in Albania</i> Ratification of Standard Oil proposals by Chamber of Deputies, and expectation of favorable vote in the Senate.	509
July 20 (48)	<i>From the Chargé in Albania (tel.)</i> Completion of ratification of Standard Oil Co.'s concession in Albania.	510
Oct. 7 (30)	<i>From the Minister in Albania</i> Report that Standard Oil Co. has completed the selection of lands under the concession ratified by Parliament.	510

ALBANIA

APPROVAL BY THE PARLIAMENT OF ALBANIA OF THE AMERICAN-ALBANIAN AGREEMENT EFFECTED BY AN EXCHANGE OF NOTES JUNE 23 AND 25, 1922

Date and number	Subject	Page
1922 Aug. 2 (3)	<i>From the Commissioner in Albania</i> Transmittal of notes exchanged between United States and Albania, June 23 and 25, 1922 (texts printed), as basis for U. S.-Albanian relations.	511
1925 Dec. 16 (44)	<i>From the Minister in Albania</i> Parliament's approval of the 1922 agreement by exchange of notes. Transmittal of the proposed law approving the agreement and of the report rendered by the Foreign Minister (texts printed).	512
Dec. 29 (46)	<i>From the Minister in Albania</i> Information that Albania's pledges of June 25, 1922, to the U. S. Government became law on December 28, 1925, by publication in the Official Gazette.	514

AUSTRIA

INFORMAL AGREEMENT BETWEEN THE UNITED STATES AND AUSTRIA FOR CONTINUATION OF RECIPROCAL MOST-FAVORED-NATION TREATMENT IN CUSTOMS MATTERS

1925 June 25 (25)	<i>To the Minister in Austria (tel.)</i> Instructions to inquire whether Austrian Foreign Office intends the continuance of most-favored-nation treatment to American commerce pending the conclusion of a treaty of friendship, commerce, and consular rights between the two countries.	516
July 4 (45)	<i>From the Minister in Austria (tel.)</i> Informal understanding for the continuance of reciprocal most-favored-nation treatment until the conclusion and entry into force of the treaty under negotiation.	517

BELGIUM

CONVENTION BETWEEN THE UNITED STATES AND BELGIUM FOR THE PREVENTION OF SMUGGLING OF INTOXICATING LIQUORS, SIGNED DECEMBER 9, 1925

1925 Sept. 8	<i>To the Belgian Chargé</i> Presentation of a draft liquor convention almost identic with the one concluded with France on June 30, 1924.	518
Dec. 9	<i>Convention Between the United States of America and Belgium</i> For the prevention of liquor smuggling into the United States.	519

BELGIUM

INTEREST OF THE UNITED STATES IN GERMAN REPARATION PAYMENTS TO
BELGIUM—Continued

Date and number	Subject	Page
1925 Mar. 31 (140)	<i>To the Ambassador in France (tel.)</i> For Hill: U. S. position, to be conveyed to the Belgian Government, that the United States is in no way committed to the decision of the Reparation Commission as to the amount of the debt owed by Belgium to the United States—that this is a question solely between the two Governments.	531
Apr. 2 (208)	<i>From the Ambassador in France (tel.)</i> From Hill: Information that Belgian representative understood perfectly the U. S. position, as communicated in accordance with Department's instructions.	532

BRAZIL

DISAPPROVAL BY THE DEPARTMENT OF STATE OF PROPOSED LOANS FROM
AMERICAN BANKERS TO THE STATE OF SÃO PAULO

1925 Undated	<i>Memorandum by Mr. Stokeley W. Morgan, of the Division of Latin American Affairs, of a Conversation With Mr. Earle Bailie, August 18, 1925</i> Inquiry by Mr. Bailie as to whether the Department would have any objection to a projected loan by his company (J. & W. Seligman & Co.) to the Paulista Institute for the Permanent Defense of Coffee of São Paulo.	533
Aug. 21	<i>To Mr. Earle Bailie</i> Department's inability to approve the proposed loan.	534
Nov. 4	<i>From Speyer & Co.</i> Inquiry as to Department's attitude regarding a loan for 25 to 35 million dollars being negotiated with the State of São Paulo to finance agricultural and commercial interests.	534
Nov. 6	<i>To Speyer & Co.</i> Department's inability to approve the proposed loan, in view of the policy of coffee valorization followed by the authorities of São Paulo.	535

BULGARIA

CONTINUANCE OF AMERICAN CAPITULATORY RIGHTS IN BULGARIA

1924 July 1 (503)	<i>From the Minister in Bulgaria</i> Report of French inquiry as to whether the exchange of ratifications of the U. S.-Bulgarian extradition treaty should be taken as an indication of U. S. relinquishment of its capitulatory rights in Bulgaria.	536
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BULGARIA

CONTINUANCE OF AMERICAN CAPITULATORY RIGHTS IN BULGARIA—Continued

Date and number	Subject	Page
1925 Sept. 23 (141)	<i>To the Minister in Bulgaria</i> Department's opinion that no direct relation exists between U. S. capitulatory rights in Bulgaria and the provisions of the extradition treaty. Assertion that Department's interest in capitulations is limited to securing most-favored-nation treatment for its nationals. Request for Minister's comments on present situation and attitude of the various capitulatory powers.	537
Dec. 6 (743)	<i>From the Chargé in Bulgaria</i> Résumé of capitulations in Bulgaria from the Treaty of Berlin of 1878. Attitude of Ministry of Foreign Affairs that capitulations no longer exist. Information that the attitude of Great Britain, France, and Italy is more or less conciliatory; that at present American citizens in Bulgaria receive the same treatment as that accorded the nationals of other countries. Opinion that best policy for United States would be to hold capitulatory rights in reserve against either the possible defense of a national or to use for some commercial preference.	538

CANADA

EXTRADITION CONVENTION BETWEEN THE UNITED STATES AND CANADA APPLYING TO OFFENSES AGAINST LAWS FOR THE SUPPRESSION OF TRAFFIC IN NARCOTICS

1925 Jan. 8	<i>Convention Between the United States of America and Great Britain in Respect of the Dominion of Canada</i> For enlarging the list of crimes on account of which extradition may be granted under previous conventions between the two countries.	542
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BOUNDARY TREATY BETWEEN THE UNITED STATES AND CANADA

1925 Feb. 24	<i>Treaty Between the United States of America and Great Britain in Respect of the Dominion of Canada</i> To define more accurately, to complete, and to maintain the demarcation of the boundary between the United States and Canada.	544
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CONVENTION AND PROTOCOL BETWEEN THE UNITED STATES AND CANADA TO REGULATE THE LEVEL OF THE LAKE OF THE WOODS

1925 Feb. 24	<i>Convention Between the United States of America and Great Britain in Respect of the Dominion of Canada</i> To regulate the level of the Lake of the Woods.	550
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CANADA

CONVENTION AND PROTOCOL BETWEEN THE UNITED STATES AND CANADA TO
REGULATE THE LEVEL OF THE LAKE OF THE WOODS—Continued

Date and number	Subject	Page
1925		
Feb. 24	<i>Protocol</i> Accompanying the convention to regulate the level of the Lake of the Woods.	555
Feb. 24	<i>Agreement</i> Accompanying the convention and protocol to regulate the level of the Lake of the Woods.	556

CONTINUED PROTESTS BY THE CANADIAN GOVERNMENT AGAINST INCREASED
DIVERSION OF THE WATERS OF THE GREAT LAKES

1925		
Feb. 13	<i>To the British Ambassador</i> Transmittal of notice issued by the Secretary of War, February 10 (text printed), of a hearing to be held on February 20 on an application made by the Sanitary District of Chicago for a permit to divert an annual average of 10,000 cubic feet of water per second from Lake Michigan.	558
Feb. 24 (198)	<i>From the British Ambassador</i> Canadian Government's reiteration of protest against the abstraction of water from the St. Lawrence basin as injurious to Canadian interests as regards navigation and power development. Expression of confidence that no permit will be granted for the diversion of any water not essential to safeguarding the health of the population of Chicago.	559
Mar. 21	<i>To the British Ambassador</i> Information that on March 3 a permit was issued by the War Department to the Sanitary District of Chicago (text printed) authorizing the temporary withdrawal from Lake Michigan of 8,500 cubic feet of water per second until December 31, 1929, subject to certain conditions.	561
May 7 (467)	<i>From the British Ambassador</i> Canadian Government's inquiries as to the extent to which the new permit will modify the actual conditions which obtained during the year immediately preceding March 3, 1925.	563
June 15	<i>To the British Charge</i> Information in reply to the inquiries made by the Canadian Government, to the effect that net result will make possible a reduction in the flow of water passing Lockport.	564
Sept. 15 (813)	<i>From the British Charge</i> Canadian Government's opinion that the permit of March 3 will authorize a greater diversion of water than is now being made, and inquiry as to whether the U. S. authorities intend to take measures to insure future curtailment.	565
Nov. 24	<i>To the British Ambassador</i> Assertion that Canadian Government is correct in concluding that no immediate reduction is provided, but that its conclusion that no definite reduction is assured and that the effect of the permits will actually be to authorize a greater diversion than is now being made cannot be confirmed.	567

CANADA

INTIMATION BY THE CANADIAN GOVERNMENT OF ITS CLAIM TO SOVEREIGNTY
IN THE ISLANDS OF THE NORTH

Date and number	Subject	Page
1925 June 15 (627)	<i>From the British Chargé</i> Information of Canadian Government's readiness to lend assistance of Canadian officers in the far North and posts of the Royal Canadian Mounted Police to proposed MacMillan scientific expedition, and to furnish the necessary permits for entering Canadian northern territories.	570
June 19	<i>To the British Chargé</i> Route of proposed expedition; request for information as to what constitutes a post of the Royal Mounted Police, where such posts have been established, whether they are permanently occupied, and if so, by whom.	571
July 2 (676)	<i>From the British Chargé</i> Information regarding posts and duties of the Royal Mounted Police.	571
July 18	<i>To the British Chargé</i> Promise of reply to the Chargé's notes of June 15 and July 2 when necessary study of the matter has been completed. (Footnote: Information that apparently no further reply was made to these British notes.)	573

REGULATIONS TO GIVE EFFECT TO THE CONVENTION OF JUNE 6, 1924, BETWEEN
THE UNITED STATES AND CANADA FOR THE SUPPRESSION OF SMUGGLING

1925 Sept. 19	<i>Executive Order No. 4306</i> Approving regulations to give effect to the smuggling convention of June 6, 1924, between the United States and Great Britain in respect of Canada.	573
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CHILE

DISINCLINATION OF THE UNITED STATES TO GRANT ASYLUM DURING
REVOLUTIONARY CRISIS IN CHILE

1925 Jan. 24 (8)	<i>From the Ambassador in Chile (tel.)</i> Report of revolutionary movement by the Army and formation of New Junta de Gobierno.	581
Jan. 25 (9)	<i>From the Ambassador in Chile (tel.)</i> Fear of certain members of the late regime for the safety of those members being held virtual prisoners, and request for action by the Ambassador on their behalf. Ambassador's desire for instructions.	581
Jan. 26 (12)	<i>From the Ambassador in Chile (tel.)</i> Report that situation is grave, with possibility of civil war. Opinion that it is not necessary to send ships to Chile, but would be desirable to send some very close to Chilean ports.	582

CHILE

DISINCLINATION OF THE UNITED STATES TO GRANT ASYLUM DURING
REVOLUTIONARY CRISIS IN CHILE—Continued

Date and number	Subject	Page
1925		
Jan. 26 (3)	<i>To the Ambassador in Chile (tel.)</i> Department's opinion that, in view of the fact that the members of the late regime are under guard by order of the present authorities, any action by the Ambassador in their behalf would not be justified.	583
Jan. 27 (4)	<i>To the Ambassador in Chile (tel.)</i> Outline of Department's position with regard to asylum; maintenance of view that the granting of shelter to any person not exempt from the local jurisdiction cannot be viewed with favor except under very exceptional circumstances.	584
Jan. 27 (5)	<i>To the Ambassador in Chile (tel.)</i> Department's feeling that the presence of American war vessels in Chilean ports would cause an unfavorable impression; willingness to send them only if American lives were in danger.	585
Jan. 27 (13)	<i>From the Ambassador in Chile (tel.)</i> Report that acute crisis appears to be settled; that Alessandri has been declared constitutional President; that new constitutional convention is to be called and political prisoners released.	585
Feb. 12 (19)	<i>From the Ambassador in Chile (tel.)</i> Request of a religious order for protection for its property in Chile, on the ground that the title is in the name of an American citizen. Desire for instructions.	586
Feb. 14 (6)	<i>To the Ambassador in Chile (tel.)</i> Instructions not to extend protection if the property mentioned is actually owned by the order and only the title is recorded in name of the American citizen; otherwise, to inform Department as to particulars.	587
Mar. 19 (11)	<i>To the Ambassador in Chile (tel.)</i> Instructions that upon Alessandri's resumption of office, formal relations may be maintained with him. (Footnote: Alessandri's resumption of office on March 20.)	587

CHINA

RENEWAL OF CIVIL WAR IN NORTH CHINA AND REFUSAL BY THE UNITED STATES
TO LEND ITSELF TO A POLICY OF INTERVENTION

1925		
Jan. 2 (1)	<i>From the Minister in China (tel.)</i> Report of unsettled conditions in North China, both military and political: Military power of Chang Tso-lin, shared by Feng Yu-hsiang; arrival of Sun Yat-sen at Peking. Plans of Marshal Tuan, the Chief Executive, for reorganization conference for solution of the complicated situation. Reports of anti-Christian agitation in Canton and in Chekiang Province.	588

CHINA

RENEWAL OF CIVIL WAR IN NORTH CHINA, ETC.—Continued

Date and number	Subject	Page
1925		
Jan. 13 (22)	<i>From the Minister in China (tel.)</i> Chang Tso-lin's announcement of his departure from Tientsin for Mukden with the statement, "All my troops will also be instructed to return to Mukden successively."	591
Jan. 15 (23)	<i>From the Minister in China (tel.)</i> Report of informal conversation with Chief Executive, in which latter stated that 19 out of 22 provinces had accepted invitations to his rehabilitation conference. Report that the conference, however, is the subject of constant attack by the Kuomintang.	591
Jan. 16 (26)	<i>From the Minister in China (tel.)</i> Telegram from consul general at Shanghai, January 15 (text printed), reporting an incident involving American and French sailors and resulting in several casualties to Chinese soldiers interned at Haig reserve school.	592
Jan. 18 (28)	<i>From the Minister in China (tel.)</i> Conference with British Minister regarding proposal of the British acting consul general at Shanghai, in telegram dated January 16 (extract printed), at the behest of British interests there, that measures be taken, including the sending of an international military force, to prevent a recurrence of fighting near Shanghai. Minister's opinion that such measures would constitute forcible intervention on Chinese territory; British Minister's concurrence in this view. Telegram from American consul general at Shanghai, January 17 (text printed), indicating a similar proposal by a meeting of the consular body at Shanghai; Minister's reply, January 17 (text printed), setting forth questions as to various details of the proposal, and requesting consul general to consult with Admiral McVay and send information requested.	592
Jan. 19 (29)	<i>From the Minister in China (tel.)</i> Message from Admiral McVay (extract printed) that the force available for protection of the International Concession at Shanghai is considered by senior naval officers to be sufficient; that American sailors have been cleared of any responsibility in the shooting of the Chinese previously reported.	595
Jan. 21 (35)	<i>From the Minister in China (tel.)</i> Telegram from the consul at Shanghai, January 14 (extract printed), reporting decision of the consuls general of the powers to request the diplomatic body to authorize the consular body to forbid right of asylum to all Chinese military leaders so long as conditions remain unsettled. Resolution adopted by diplomatic body, January 19 (text printed), authorizing such action.	595
Jan. 24 (45)	<i>From the Minister in China (tel.)</i> Report of military attaché, January 23 (extract printed), sent to Shanghai by the Minister, expressing opinion that present force available is ample to handle conditions.	596
Jan. 27 (47)	<i>From the Minister in China (tel.)</i> Radiogram from Admiral McVay, January 26 (text printed), transmitting message from General Wang that Woosung fort would not fire on foreign vessels during daylight only.	596

CHINA

RENEWAL OF CIVIL WAR IN NORTH CHINA, ETC.—Continued

Date and number	Subject	Page
1925 Jan. 28 (49)	<i>From the Minister in China (tel.)</i> Radiogram from Admiral McVay, January 27 (extract printed), reporting that senior naval officers had sent message to Woosung fort of their inability to accept a wireless warning, closing the fort during the night constituting an interference with foreign shipping. (Footnote: Admiral McVay's telegram of January 28 reading, "Woosung fort has agreed to abide by notice sent yesterday.")	597
Jan. 29 (2740)	<i>From the Minister in China</i> Report of insistence by Americans as well as British in Shanghai on their demands for protection; request for instructions as to policy to be adopted by the United States in the event of a repetition of the recent situation in Shanghai.	597
Jan. 31 (56)	<i>From the Minister in China (tel.)</i> Radiogram from Admiral McVay, January 30 (text printed), reporting that a detachment of Chang Tso-lin's army has arrived in Shanghai and taken charge, and that Chang is now master of the eastern section of North China from Harbin to Shanghai.	598
Feb. 5 (Circular 30)	<i>From the Netherlands Minister in China, Senior Minister, to the American Minister</i> Note from the Waichiaopu, February 4 (text printed), stating that, in accord with the Senior Minister's request, the Chief Executive had been requested to give instructions to the military authorities in Kiangsu Province for the prohibition of troops in or near the foreign settlement.	598
Feb. 5 (59)	<i>From the Minister in China (tel.)</i> Report of request by consular body at Shanghai that the foreign ministers suggest that the Chinese Government dismantle the Woosung forts and evacuate the troops there. Minister's request for instructions as to whether he should join in such a suggestion.	599
Feb. 7 (19)	<i>To the Minister in China (tel.)</i> Department's inability to authorize the Minister to join in representations to Chinese Government regarding Woosung forts.	600
Mar. 12 (102)	<i>From the Minister in China (tel.)</i> Death of Sun Yat-sen, March 12.	600
Mar. 21 (120)	<i>From the Minister in China (tel.)</i> Report from consul at Mukden of an interview with Chang, in which Chang indicated his determination to oust Feng. Minister's belief that it is inevitable that Chang should fight it out with Feng before long.	600
Mar. 27 (309)	<i>From the British Ambassador</i> Information that the British Government has instructed its Ambassador in Tokyo to inquire of the Japanese Government whether it would desire to make any proposals with a view to international consultation or the use of diplomatic pressure upon the rival Chinese groups to prevent the hostilities now threatened. Request for U. S. views.	601

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RENEWAL OF CIVIL WAR IN NORTH CHINA, ETC.—Continued

Date and number	Subject	Page
1925 Mar. 27 (56)	<i>To the Minister in China (tel.)</i> Request for comments on the British proposal as set forth in the British Ambassador's note No. 309 of March 27. Secretary's opinion that it would not be wise for the United States to join in a request to Japan for suggestions. (Instructions to repeat to Tokyo.)	602
Mar. 28 (36)	<i>To the Ambassador in Japan (tel.)</i> Instructions to telegraph opinion of the British proposal and any pertinent information.	603
Mar. 29 (127)	<i>From the Minister in China (tel.)</i> Views as to possible motives of Great Britain. Opinion that neither international consultation, peaceful action, nor pressure would prevent hostilities if they are to occur; that the powers should avoid even the appearance of intervening on either side; and that the United States should pursue its traditional policy of helpful cooperation with the Chinese.	603
Mar. 29 (55)	<i>From the Ambassador in Japan (tel.)</i> Report that the Japanese Foreign Office has had no news of the impending strife between Chang and Feng. Opinion that the form of the British suggestion is objectionable; suggestions as to possible U. S. course of action.	605
Mar. 30 (877)	<i>To the Minister in China</i> Department's assertion, in reply to Minister's despatch No. 2740 of January 29, of the impracticability of setting forth in advance its attitude toward a particular situation; concurrence in Minister's view, as set forth in telegram No. 28, January 18, that the sending of an international military force to Shanghai would be an act of forcible intervention.	606
Apr. 2	<i>To the British Ambassador</i> Summary of U. S. views regarding British suggestion in note No. 309 of March 27; conclusion that U. S. Government cannot adopt the course of action proposed.	607
May 2 (179)	<i>From the Chargé in China (tel.)</i> Report of mobilization of Feng forces, and other circumstances which make clash between Chang and Feng appear more imminent.	609
May 26 (189)	<i>From the Chargé in China (tel.)</i> Chang's intention to come to Tientsin shortly, and to Peking immediately thereafter, and to secure military control of Peking and environs.	610
May 30 (194)	<i>From the Chargé in China (tel.)</i> Arrival of Chang Tso-lin at Tientsin.	610
July 2 (259)	<i>From the Chargé in China (tel.)</i> Chang's continued desire to crush Feng, to come to Peking and take control of affairs, and his efforts to obtain British support; Feng's support by Soviet and radical Kuomintang assistance, and his antforeign propaganda.	611

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RENEWAL OF CIVIL WAR IN NORTH CHINA, ETC.—Continued

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1925 July 9 (686)	<i>From the British Chargé</i> Summary of the Chinese situation as it appears to the British Government: Increase of Feng's military power in and around Peking, his support from Russia, and his anti-British declarations; danger of renewed disorders in the Yangtze Valley; aggressive attitude of Communist Government at Canton. Inquiry as to U. S. views of the situation, and what steps the United States considers should be taken.	611
July 13	<i>To the British Chargé</i> Expression of general accord with the British Government as to the seriousness of the situation in China; information that up to the present the United States has not considered any action other than the maintenance of its present military and naval forces for the protection of the lives and property of its citizens in China.	613
July 25 (290)	<i>From the Minister in China (tel.)</i> Press reports of Chang Tso-lin's arrival at Mukden.	614
July 27 (712)	<i>From the British Chargé</i> Information that according to reports received by the British Government the situation in China has eased somewhat, and therefore no special measures have been taken beyond the despatch of one aircraft carrier to Hongkong.	614
Oct. 17 (448)	<i>From the Minister in China (tel.)</i> Existence of tense situation between forces of Chang in Kiangsu and the Chekiang forces under Sun Chuan-fang, who is believed to be acting upon an understanding with Feng and Wu Pei-fu to drive Chang back into Manchuria; consequent possibility that all North China will be involved in a new civil war between Feng and Chang, with the possession of Peking and control of the Central Government as the principal objective.	614
Oct. 17 (451)	<i>From the Minister in China (tel.)</i> Telegram from Shanghai (text printed) stating that forces of Sun Chuan-fang have completely occupied Shanghai without resistance.	616
Nov. 5 (475)	<i>From the Minister in China (tel.)</i> Report that negotiations between representatives of Chang and Feng for peaceful division of power have failed; that Chang appears to be confronted by Feng, Wu Pei-fu, and Sun Chuan-fang. Mobilization of troops by both sides.	616
Nov. 18 (488)	<i>From the Minister in China (tel.)</i> Diminution of the possibility of immediate conflict between Chang and Feng, due to a sudden compromise agreement.	617
Nov. 25 (497)	<i>From the Minister in China (tel.)</i> Report that Chang has been placed under confinement at Mukden by order of Manchurian General and that there is dissension among Manchurian commanders at Shanhaikwan. Factional fighting among Manchurian forces. Recommendation, in view of the military and political instability throughout China, for the holding in readiness of certain U. S. military and naval forces.	618
Nov. 28 (502)	<i>From the Minister in China (tel.)</i> Information that telegram No. 497, November 25, was partially erroneous, as Chang Tso-lin is still in control at	618

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RENEWAL OF CIVIL WAR IN NORTH CHINA, ETC.—Continued

Date and number	Subject	Page
1925 Nov. 30 (508)	<i>From the Minister in China (tel.)</i> Demonstrations against the Central Government by students and workmen, and distribution of leaflets and cartoons, some issued by Chinese Communist Society and some by Kuomintang.	619
Dec. 7 (517)	<i>From the Minister in China (tel.)</i> Telegram from the consul at Mukden, December 6 (text printed), reporting that Chang has suffered complete debacle and that his position is hopeless.	620
Dec. 9 (521)	<i>From the Minister in China (tel.)</i> Telegram from the consul at Mukden, December 8 (text printed), reporting determination of Chang and his son to make a hard fight.	620
Dec. 11 (524)	<i>From the Minister in China (tel.)</i> Attack on international train between Peking and Tientsin; occupation of the railway station at Yangtsun by Feng forces. Plans of Minister and Senior Minister at Peking to protest to Feng's Peking representative against the occupation of the Yangtsun station as a violation of article 9 of the 1901 protocol.	620
Dec. 12 (527)	<i>From the Minister in China (tel.)</i> Arrival of international train at Peking with all on board unhurt and well.	622
Dec. 14	<i>From the Consul General at Tientsin (tel.)</i> Successful resistance by Li Ching-lin, Military Governor of Chihli, against advance Feng forces from Peking on a line more than 6 miles from Tientsin.	622
Dec. 14 (528)	<i>From the Minister in China (tel.)</i> <i>Aide-memoire</i> (text printed) to be presented to the Chief Executive by the Ministers of the protocol powers, urging measures to bring about free communication between Peking and Tientsin in accordance with the protocol of 1901.	623
Dec. 23 (542)	<i>From the Minister in China (tel.)</i> Report that international train between Tientsin and Shan-haikwan was fired upon by Feng forces, halted, and forced to return to Tientsin. Further representations by the Senior Minister to Feng's representative and to the Chinese Government. Approval by Feng and Li Ching-lin, after much negotiation, of arrangements for operation of international trains.	623
Dec. 24	<i>From the Consul at Chefoo (tel.)</i> Telegram from the consul general at Tientsin (text printed) reporting that Li Ching-lin's forces are retreating from Tientsin and Feng's troops are entering the city.	625
Dec. 24 (544)	<i>From the Minister in China (tel.)</i> Identic telegram to their respective governments agreed upon by the Ministers of the protocol powers (text printed) requesting instructions, in view of the possible necessity for the use of force to restore the operation of the international train in spite of assurances given. Report that since the telegram was drafted, Feng has ordered that the train be allowed to pass unhindered.	625

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RENEWAL OF CIVIL WAR IN NORTH CHINA, ETC.—Continued

Date and number	Subject	Page
1925 Dec. 24	<i>From the Consul at Mukden (tel.)</i> Chang Tso-lin's defeat of the forces of Kuo Sung-ling, commander of Manchurian forces attempting to overthrow Chang.	626
Dec. 24 (347)	<i>To the Minister in China (tel.)</i> Department's disapproval of the use of force, as mentioned in identic telegram quoted in Minister's telegram No. 544, December 24, unless lives of U. S. citizens are in danger.	626
Dec. 25 (545)	<i>From the Minister in China (tel.)</i> Arrival of international train at Tientsin from Peking; resumption of commercial service with depleted equipment.	626
Dec. 28 (549)	<i>From the Minister in China (tel.)</i> Issuance by Tuan of mandates adding a cabinet to the system of the Provisional Government; abolishing supreme control by the Chief Executive and vesting it in the Premier, the Cabinet, and the Chief Executive jointly; and appointing Hsu Shih-ying as Premier.	627

DECISION BY THE UNITED STATES AND OTHER POWERS TO ACCREDIT MINISTERS TO THE PROVISIONAL GOVERNMENT OF CHINA

1925 Apr. 6 (69)	<i>To the Minister in China (tel.)</i> Instructions to report whether the Chinese Government will consider acceptable the appointment of Mr. John V. A. MacMurray as Minister to China.	627
Apr. 9 (146)	<i>From the Minister in China (tel.)</i> Information that the appointment of Mr. MacMurray will be satisfactory to the Chinese Government; that the Belgian and French Ministers have not yet presented their credentials.	628
Apr. 10 (150)	<i>From the Minister in China (tel.)</i> Assertion that the real reason for the failure of the Belgian and French Ministers to present credentials is that Tuan's government is only <i>de facto</i> , and such action would constitute <i>de jure</i> recognition.	628
Apr. 27 (174)	<i>From the Chargé in China (tel.)</i> Presentation of credentials by the Spanish Minister, April 24. Report that the French and Belgian Ministers have telegraphed for instructions.	629
Apr. 30 (178)	<i>From the Chargé in China (tel.)</i> Belgian Minister's receipt of authorization to present his credentials if he considers it to be in accordance with the collective declaration of December 9, 1924. Plans for discussion of the question of presentation of letters of credence at meeting of the Washington Conference powers, May 6.	629
May 2 (91)	<i>To the Chargé in China (tel.)</i> Department's feeling that it is impractical to consider in connection with the presentation of credentials, the qualifications which may have been attached to the recognition of the Peking regime in December 1924, in view of the relations that the powers are actually maintaining with that regime.	630

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DECISION BY THE UNITED STATES AND OTHER POWERS TO ACCREDIT MINISTERS
TO THE PROVISIONAL GOVERNMENT—Continued

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1925 May 6 (181)	<i>From the Chargé in China (tel.)</i> Identical telegram (text printed) to be sent by the representatives of the treaty powers to their respective governments. General opinion among the representatives that unless certain reservations were made, the Chinese Government would consider the presentation of credentials as <i>de jure</i> recognition.	631
May 9 (93)	<i>To the Chargé in China (tel.)</i> Department's belief that there would be no advantage in withholding action which would merely confirm a relationship already practically existing.	632
May 13 (186)	<i>From the Chargé in China (tel.)</i> Chargé's suggestion that, as even Tuan and the Chinese themselves consider Tuan's regime as only provisional, it would be preferable to address the new Minister's credentials to the Chief Executive of the Provisional Chinese Government rather than to the President of the Republic of China, thus avoiding recognition of the unstable transitional regime as the <i>de jure</i> Government of China.	632
May 27 (98)	<i>To the Chargé in China (tel.)</i> Memorandum from the British Embassy, May 16 (text printed), requesting U. S. views as to whether recognition is at present possible. Secretary's suggestion to the British Ambassador that letters be addressed to the Chief Executive of the Provisional Government of China.	633
June 23 (116)	<i>To the Chargé in China (tel.)</i> Memorandum from the French Embassy, presented June 22 (text printed), requesting U. S. views as to the postponement of the presentation of credentials by the Ministers of the powers until the Boxer indemnity claims have been given satisfaction. Department's unwillingness to have Mr. MacMurray postpone the presentation of his credentials on this basis.	635
July 2 (258)	<i>From the Chargé in China (tel.)</i> Presentation of letters of credence by the Belgian Minister on June 30 and by the French Minister on July 1.	635
July 7 (266)	<i>From the Chargé in China (tel.)</i> From MacMurray: Arrival in Peking, July 7.	636
July 15 (273)	<i>From the Minister in China (tel.)</i> Presentation of credentials, July 15.	636

ACCEPTANCE OF THE SOVIET AMBASSADOR AS DEAN OF THE DIPLOMATIC CORPS
AT PEKING AND ESTABLISHMENT OF AN INFORMAL ORGANIZATION OF HEADS
OF LEGATION

1925 Feb. 28 (30)	<i>To the Minister in China (tel.)</i> Authorization, in view of the Soviet Ambassador's status as dean of the diplomatic body in Peking, to join colleagues whenever it may seem expedient in conveying to the Soviet Ambassador an intimation of readiness to cooperate with him in such matters as are of general concern to the entire diplomatic body.	636
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ACCEPTANCE OF THE SOVIET AMBASSADOR AS DEAN OF THE DIPLOMATIC CORPS
AT PEKING, ETC.—Continued

Date and number	Subject	Page
1925 Mar. 11 (100)	<i>From the Minister in China (tel.)</i> Plan agreed to by Heads of Legation to limit the diplomatic body to ceremonial functions and to establish a group embracing all the ministers now in Peking as an unofficial instrument for the transaction of common treaty business with the Chinese Government and consular bodies. Appointment of committee to draft communication in this sense to Karakhan (the Soviet Ambassador) and the Chinese Government.	637
Mar. 14 (41)	<i>To the Minister in China (tel.)</i> Department's opinion that the communications to Karakhan and the Chinese Government should be as informal as possible.	638
Apr. 21 (161)	<i>From the Chargé in China (tel.)</i> Communication for Karakhan and the Chinese Government (text printed) stating the recognition of Karakhan as dean of the diplomatic corps for ceremonial purposes.	638
Apr. 25 (172)	<i>From the Chargé in China (tel.)</i> Request for instructions as to attitude to be adopted in respect of relations with Karakhan as dean of the diplomatic body.	639
Apr. 30 (89)	<i>To the Chargé in China (tel.)</i> Reference to Department's telegram of August 28, 1924, to Helsingfors (text printed) for guidance with regard to relations with Karakhan. Assertion that U. S. nonrecognition of Soviet regime should not preclude purely social and unofficial relationships.	640
May 4 (2962)	<i>From the Chargé in China</i> Karakhan's inquiry, upon receiving notification of his recognition as dean, whether he was also dean of the protocol powers; negative reply agreed upon by Heads of Legation.	640

FURTHER CONSIDERATION BY THE AMERICAN AND BRITISH GOVERNMENTS OF
MEANS FOR EFFECTIVELY PREVENTING THE TRAFFIC IN ARMS WITH CHINA

1925 Mar. 12 (252)	<i>From the British Ambassador</i> British Government's opinion, after exchange of views with the French Government, that there is no hope of success for a tripartite agreement prohibiting the export of aircraft to China; that it is doubtful whether the Arms Embargo Agreement of 1919 can be strengthened. Intention, however, to continue policy of doing all in their power to make the embargo a reality.	641
Mar. 16	<i>From the British Ambassador</i> Possibility that at the forthcoming Geneva arms conference the question may arise whether China should be scheduled as a prohibited area. Request for U. S. views on such a proposal, or suggestions as to other means of effective international co-operation.	642
Mar. 25 (302)	<i>From the British Ambassador</i> Insistence of the French Government that aircraft of commercial type cannot legally be detained in transit to the Far	644

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FURTHER CONSIDERATION BY THE AMERICAN AND BRITISH GOVERNMENTS OF
MEANS FOR EFFECTIVELY PREVENTING THE TRAFFIC IN ARMS WITH CHINA—
Continued

Date and number	Subject	Page
1925 Apr. 8	<i>To the British Ambassador</i> U. S. concurrence in British opinion as to the doubtful success of a tripartite agreement at present. Intention to continue to emphasize to the French Government the nonexistence of commercial aviation in China and the view that all aircraft destined for China should come within the scope of the embargo.	644
Apr. 15	<i>To the British Ambassador</i> Expression of doubt as to whether any useful purpose could be served by a discussion of the China arms question at the Geneva conference. U. S. inclination not to favor a suggestion to place China in the so-called prohibited areas.	646

PARTICIPATION BY THE UNITED STATES IN EFFORTS TO SOLVE PROBLEMS ARISING
FROM THE DISTURBANCES AT SHANGHAI, MAY 30, 1925

1925 May 31	<i>From the Consul General at Shanghai (tel.)</i> Report of violence in International Settlement following demonstrations by Chinese students, resulting in several casualties and arrests among the students.	647
June 1	<i>From the Chinese Minister for Foreign Affairs to the Italian Minister in China, Senior Minister</i> Formal protest in regard to the occurrence in Shanghai, May 30. Request for release of the arrested persons and for instructions to Shanghai consular authorities to prevent a recurrence of the incident.	647
June 3	<i>From the Consul General at Shanghai (tel.)</i> Report of general strike resolutions passed by students and various associations, to become effective June 1; also of demands made and resolutions passed on all conceivable questions.	648
June 3	<i>From the Consul General at Shanghai (tel.)</i> Information that 49 of those arrested have been arraigned in the Mixed Court on a charge of rioting. Chinese attack upon police and volunteers; increase of immediate need for additional war vessels; extensive spread of strike among workmen.	649
June 3	<i>From the Consul General at Shanghai (tel.)</i> Resolutions passed by various meetings held on June 2; circulation of propaganda advocating extension of the strike to the public utilities and workmen indispensable to foreigners.	650
June 4	<i>From the Consul General at Shanghai (tel.)</i> Further spread of the strike.	651
June 4	<i>To the Consul General at Shanghai (tel.)</i> Department's desire that all needful measures be taken to prevent the further spread of trouble and to protect American lives and property.	651
June 4 (202)	<i>From the Chargé in China (tel.)</i> Demonstrations by students in Peking, upholding certain demands against foreigners in connection with the Shanghai incident.	652

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PARTICIPATION BY THE UNITED STATES IN EFFORTS TO SOLVE PROBLEMS ARISING FROM THE DISTURBANCES AT SHANGHAI—Continued

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1925		
June 4 (203)	<p><i>From the Chargé in China (tel.)</i> Note handed to the Chinese Foreign Office by the Senior Minister (text printed) specifying the circumstances under which the police were led to the use of arms in the Shanghai disturbance of May 30; and expressing the hope that the Chinese Government will regard the incident with a conciliatory spirit pending the reestablishment of order. Information that Karakhan has addressed a note of sympathy to the Waichiaopu regarding the Shanghai incident.</p>	653
June 4	<p><i>From the Chinese Minister for Foreign Affairs to the Italian Minister in China, Senior Minister</i> Protest that alleged violent attitude of the authorities of the International Concession at Shanghai has resulted in gravest consequences, notably general strikes; request for urgent instructions to the consular authorities that firing cease.</p>	654
June 5 (204)	<p><i>From the Chargé in China (tel.)</i> Karakhan's note of sympathy to the Chinese Foreign Office (text printed). Information that Karakhan has transmitted to the Heads of Legation a telegram of protest received by him from the Shanghai Union of Teachers.</p>	655
June 6 (6320-388:2)	<p><i>From the Secretary of the Navy</i> Disposition of U. S. naval forces at Shanghai, as given in a despatch from the commander in chief of the Asiatic Fleet.</p>	656
June 6	<p><i>From the Italian Minister in China, Senior Minister, to the Chinese Minister for Foreign Affairs</i> Assertion, in reply to the Foreign Office note of June 4, that the diplomatic representatives have decided to send a delegation to Shanghai to study the situation there and report to the diplomatic body. Assurances that the police of the Settlement have always had orders to use arms only if attacked.</p>	656
June 6	<p><i>Memorandum by the Under Secretary of State</i> Conversation with the Chinese Minister regarding the situation at Shanghai. U. S. willingness that the Minister telegraph to his Government and let it be known in Shanghai that U. S. forces are there solely for the protection of American lives and property.</p>	657
June 6 (206)	<p><i>From the Chargé in China (tel.)</i> Personnel of the delegation to study the situation at Shanghai and report back to the Heads of Legation.</p>	658
June 8 (211)	<p><i>From the Chargé in China (tel.)</i> Decision by the Heads of Legation to suggest to the consular body at Shanghai the reembarkation of part of the landing force if the local situation permits, publicity to be given to such measures if taken. Chang Tso-lin's intention to send his son to investigate situation in Shanghai, and to despatch forces to maintain order.</p>	660
June 9	<p><i>From the Consul General at Shanghai (tel.)</i> Report that trial of the rioters is proceeding. Consul general's proposal that he support at the consular body meeting the appointment of an international foreign mission to investigate actions of the police on May 30 and that a Chinese</p>	660

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PARTICIPATION BY THE UNITED STATES IN EFFORTS TO SOLVE PROBLEMS ARISING FROM THE DISTURBANCES AT SHANGHAI—Continued

Date and number	Subject	Page
1925		
June 10	<p><i>From the Consul General at Shanghai (tel.)</i> Report that conditions have improved since June 3 and 4 except in regard to the strike, which is spreading.</p>	661
June 10	<p><i>To the Consul General at Shanghai (tel.)</i> Suggestion concerning the advisability of consultation with the diplomatic body and with its commission of investigation before considering the appointment of an international foreign mission of investigation, so that a duplication of effort may be avoided.</p>	662
June 11	<p><i>From the Consul General at Shanghai (tel.)</i> Improvement of general conditions but no perceptible subsiding of strike. Information from Admiral McVay that naval vessels have been stationed at practically every treaty port.</p>	663
June 12	<p><i>From the Consul General at Shanghai (tel.)</i> Telegram to the Legation (text printed) reporting that Mixed Court trial of rioters was completed June 11, with extreme leniency shown to the accused.</p>	663
June 12 (107)	<p><i>To the Chargé in China (tel.)</i> Information that press articles appearing in United States which suggest the existence of a plot by European powers and Japan to draw United States into action oppressive of China in order to further their own interests, have received no sanction whatever from the Department. (Instructions to repeat to Tokyo and Shanghai.)</p>	664
June 12 (217)	<p><i>From the Chargé in China (tel.)</i> Note from the Waichiaopu to the Senior Minister, June 11, criticizing action of the Settlement authorities; reply drafted by Heads of Legation stating that diplomatic delegation at Shanghai has been instructed to consider with the consular body and Chinese delegates the best means to remedy the distressing situation, and recalling to the Chinese Government its grave responsibility for maintaining order throughout China. Opinions of Chang Tso-lin and Feng Yu-hsiang regarding Shanghai disturbances.</p>	664
June 14 (225)	<p><i>From the Chargé in China (tel.)</i> Report from the consul at Shanghai that part of defense forces have been withdrawn, owing to improved situation.</p>	666
June 17 (112)	<p><i>From the Ambassador in Japan (tel.)</i> Information that the purport of telegram No. 107, June 12, to Peking, has been conveyed to the Foreign Minister, who expressed gratification.</p>	667
June 19 (237)	<p><i>From the Chargé in China (tel.)</i> Inability of diplomatic delegation at Shanghai to reach an agreement with the Chinese Government delegates in respect of the Shanghai incidents; departure of the delegation for Peking. Decision of Heads of Legation to constitute the Italian and the French Ministers and the U. S. Chargé as a committee to negotiate with the Chinese Government for settlement of the incidents and, if so agreed by the Governments concerned, for a reorganization of the International Settlement and the administration of justice in the Settlement.</p>	667

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PARTICIPATION BY THE UNITED STATES IN EFFORTS TO SOLVE PROBLEMS ARISING FROM THE DISTURBANCES AT SHANGHAI—Continued

Date and number	Subject	Page
1925		
June 20 (238)	<i>From the Chargé in China (tel.)</i> Chinese Government's preference for Shanghai as the place for negotiations; desire of Heads of Legation, conveyed to the Foreign Minister, that negotiations be held in Peking.	669
June 23 (242)	<i>From the Chargé in China (tel.)</i> Telegram from the consul general at Shanghai, June 22 (text printed), reporting belief that there will be no relaxation in strike until June 26; also that no practical assistance for maintaining order has yet been received from Chang Tso-lin.	670
June 26 (Circular 187 bis)	<i>From the Italian Minister in China, Senior Minister, to the American Chargé</i> Note from the Waichiaopu, June 24 (text printed), submitting the 13 demands formulated by the Chinese delegation at Shanghai and the Chinese views concerning treaty revision, for consideration during the forthcoming negotiations at Peking.	670
June 27 (252)	<i>From the Chargé in China (tel.)</i> Telegram from the consul general at Shanghai, June 26 (text printed), reporting the reopening of all Chinese banks and most shops.	672
July 2 (255)	<i>From the Chargé in China (tel.)</i> Opinion of Heads of Legation, conveyed to the Foreign Minister, that the Chinese Government's 13 points cannot seriously be considered as basis for negotiations. Suggested possibility of referring settlement of the Shanghai incidents to the Permanent Court of International Justice in conjunction with the League of Nations.	672
July 2 (257)	<i>From the Chargé in China (tel.)</i> Instructions from the Heads of Legation to the senior consul at Shanghai to be communicated to the Municipal Council (text printed), containing recommendations for revision of the police regulations of the International Settlement and for the replacement of Colonel McEuen, commissioner of police, because of negligence in connection with the incident of May 30.	674
July 2 (129)	<i>To the Chargé in China (tel.)</i> Department's desire that in the negotiations for settlement of the Shanghai incidents, every effort be made to see that the Chinese point of view receives fair and just consideration.	676
July 3 (262)	<i>From the Chargé in China (tel.)</i> Request from the consular body at Shanghai, acceded to by Heads of Legation, for a delay until July 6 in presentation to the Municipal Council of the decisions of the Heads of Legation described in telegram No. 257, July 2. Intention to communicate the decisions to the Chinese Government and to the press on July 6.	676
July 6 (264)	<i>From the Chargé in China (tel.)</i> Information that British Government has instructed its Chargé to cause suspension of communication of decisions of the Heads of Legation to the Chinese Government and to the press, pending further instructions.	677

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PARTICIPATION BY THE UNITED STATES IN EFFORTS TO SOLVE PROBLEMS ARISING FROM THE DISTURBANCES AT SHANGHAI—Continued

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1925 July 6 (133)	<i>To the Chargé in China (tel.)</i> Instructions to refrain from joining any move to refer to the Permanent Court of International Justice or to the League of Nations any question in which U. S. Government is concerned, as United States is not a member of either body.	677
July 7 (684)	<i>From the British Chargé</i> British Government's instructions to its Chargé in Peking to satisfy himself, before taking any further action, that the decisions of the diplomatic body will not meet with any effective resistance from the Municipal Council of Shanghai, and that the U. S. and Japanese representatives have been officially authorized to make the proposed communications to the Chinese Government and to the press. Hope that the U. S. Chargé will be given similar instructions.	678
July 9 (267)	<i>From the Chargé in China (tel.)</i> Information that the decisions of the Heads of Legation have been transmitted to the Municipal Council. Displeasure among certain members of the diplomatic body, particularly the French Minister, over action of British Government as described in telegram No. 264, July 6. Compromise suggested by U. S. Chargé, and ultimately agreed upon, whereby the Municipal Council would be allowed to take the proposed action as on its own initiative, announcing that such action followed discussion with the consular body and approval by the representatives of the powers concerned at Peking; identic telegram in this sense to the U. S., British, and Japanese consuls at Shanghai.	679
July 10 (268)	<i>From the Chargé in China (tel.)</i> Refusal of the Municipal Council of Shanghai to accede to the conclusions of the diplomatic representatives; no reply to the identic telegram to the U. S., British, and Japanese consuls. Identic telegram from the Heads of Legation to their respective governments (text printed) requesting authorization to undertake, if necessary, negotiations for the modification of existing land regulations in the International Settlement.	681
July 11 (271)	<i>From the Chargé in China (tel.)</i> French Minister's statement of his inability to continue as a member of the diplomatic commission delegated by the Heads of Legation to negotiate in their behalf with the Chinese authorities for the settlement of the Shanghai incident.	683
July 13 (146)	<i>To the Chargé in China (tel.)</i> Authorization as requested in the identic telegram described in Chargé's telegram No. 268, July 10.	684
July 17 (217)	<i>From the Ambassador in Great Britain (tel.)</i> British Government's proposed telegram to its Chargé in Peking (text printed), expressing opinion that a public judicial inquiry should be held in regard to the Shanghai incident, and suggesting a communication from the diplomatic body to the Municipal Council in this sense; and stating that pending the result of this inquiry the police commissioner should be suspended without prejudice. Hope of the British Government that similar instructions may be sent to the representatives at Peking of the United States, France, and Japan.	684

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Date and number	Subject	Page
1925		
July 18 (159)	<i>To the Minister in China (tel.)</i> Request for comments on the British proposal.	686
July 20 (282)	<i>From the Minister in China (tel.)</i> Recommendation that the United States accede to the British proposal with a qualification that the commission of inquiry should include a Chinese jurist.	687
July 22 (236)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to inform the British Government that the United States is prepared to acquiesce in its proposal for the holding of a judicial inquiry provided the proposed commission shall include a Chinese jurist of high standing.	689
July 30 (236)	<i>From the Ambassador in Great Britain (tel.)</i> British Government's approval of the suggestion that the proposed commission include a Chinese jurist.	690
Aug. 3	<i>To the British Charge</i> Acknowledgment of the British Charge's note No. 684, of July 7, and assertion that since receipt of the note the situation has been altered by the proposal for a judicial inquiry.	690
Aug. 14 (245)	<i>From the Ambassador in Great Britain (tel.)</i> Foreign Office note (extract printed) stating that the French, Japanese, and Italian Governments have agreed in principle to the establishment of a judicial inquiry, and requesting U. S. support in British efforts to obtain cooperation of certain other countries.	691
Aug. 5 (248)	<i>To the Ambassador in Great Britain (tel.)</i> Information that the U. S. representatives in certain European capitals have been instructed to support their British colleagues as requested by the British Government.	691
Aug. 6 (192)	<i>To the Minister in China (tel.)</i> Chinese Minister's statement to the Secretary that his Government could not see any need for the proposed judicial inquiry into the Shanghai matter.	692
Aug. 8 (319)	<i>From the Minister in China (tel.)</i> Review of the critical situation in China, including Foreign Minister's objection to a judicial inquiry; British draft document for constitution of the commission of inquiry, which, in Minister's opinion, confuses functions of inquiry with political considerations; and continued agitations at Shanghai. Recommendation of a plan of action to be urged upon the British Government, to consist of: (1) Immediate acceptance of Colonel McEuen's resignation; (2) opening of negotiations with the Chinese Government; (3) holding of judicial inquiry, if insisted upon, to be limited to finding of facts.	692
Aug. 10 (322)	<i>From the Minister in China (tel.)</i> Telegram from Shanghai, August 7 (text printed), reporting decision of the naval authorities that the landing forces, except to guard public utilities, will be withdrawn on August 10.	695
Aug. 10 (197)	<i>To the Minister in China (tel.)</i> Approval of Minister's proposed plan of action as set forth in telegram No. 319, August 8; authorization to discuss the matter with the Japanese Minister. Information that the Embassy at London is being instructed to take the matter up with the Foreign Office.	696

CHINA

PARTICIPATION BY THE UNITED STATES IN EFFORTS TO SOLVE PROBLEMS ARISING FROM THE DISTURBANCES AT SHANGHAI—Continued

Date and number	Subject	Page
1925		
Aug. 15 (257)	<i>From the Ambassador in Great Britain (tel.)</i> Foreign Office note (text printed), in reply to U. S. Ambassador's informal note, objecting to the acceptance of McEuen's resignation, but recommending that he be suspended by the Municipal Council pending outcome of the inquiry; agreeing to the immediate opening of negotiations with the Chinese Government; and agreeing to certain modification of its draft terms of reference in order to proceed with the judicial inquiry.	696
Aug. 21 (272)	<i>To the Ambassador in Great Britain (tel.)</i> Opinion of the Minister in China that McEuen's resignation is necessary. Authorization to communicate this view to the British Government and to express the hope that it may be able to reconsider its position in this regard.	698
Aug. 27 (354)	<i>From the Minister in China (tel.)</i> Information that it now appears that the British Government desires that even McEuen's suspension should not be put into effect or announced until immediately before the commission of inquiry convenes.	699
Aug. 27 (274)	<i>From the Ambassador in Great Britain (tel.)</i> Conversation with Sir Austen Chamberlain, in which he expressed desire of British Government to act in concert with the United States and Japan; fear of certain complications, however, if McEuen's resignation is permitted before a public inquiry has been made.	699
Aug. 29 (362)	<i>From the Minister in China (tel.)</i> Telegram from Shanghai (text printed) reporting cancellation of the state of emergency and reembarkation of all U. S. landing forces.	700
Aug. 30 (364)	<i>From the Minister in China (tel.)</i> Recommendation, in reply to Department's request for comments and suggestions, that British Government be informed that in order to avoid an indefinite delay in settlement of the Shanghai affair, the United States will not insist upon McEuen's resignation before the inquiry but feels that assurances should be given that he will be retired in the event of his vindication by the inquiry.	700
Aug. 31 (282)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to convey to the British Government the U. S. position as recommended by the Minister in China, together with the understanding that McEuen's suspension will be arranged to take effect as soon as possible without awaiting the commencement of the judicial inquiry.	702
Sept. 1 (278)	<i>From the Ambassador in Great Britain (tel.)</i> Information that the Foreign Office will instruct the British Chargé at Peking to cooperate with his U. S. colleague in accord with Department's position as stated in telegram No. 282, August 31.	703
Sept. 4 (379)	<i>From the Minister in China (tel.)</i> Formula drafted by the U. S. Minister, Japanese Minister, and British Chargé (extract printed), based upon the British Foreign Office draft for the terms of reference to judicial inquiry of the matters related to the Shanghai incident. Request for authorization to sign the formula, if satisfactory to Department.	703

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PARTICIPATION BY THE UNITED STATES IN EFFORTS TO SOLVE PROBLEMS ARISING FROM THE DISTURBANCES AT SHANGHAI—Continued

Date and number	Subject	Page
1925 Sept. 4 (283)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to inform Foreign Office that the United States would consider acceptable a definite pledge from it as suggested by the British Chargé in China, to the effect that the British Government would, if necessary, at the close of the judicial inquiry, exert its influence to bring about McEuen's retirement.	704
Sept. 4 (232)	<i>To the Minister in China (tel.)</i> Department's approval of the formula transmitted in telegram No. 379, September 4, and authorization to sign it or any modification thereof importing no substantial alteration.	705
Sept. 9 (385)	<i>From the Minister in China (tel.)</i> Acceptance of terms of reference by interested colleagues, with certain modifications. Assertion that action awaits selection of American and Japanese judges.	705
Sept. 9 (238)	<i>To the Minister in China (tel.)</i> Information that Associate Justice E. Finley Johnson, of the Supreme Court of the Philippine Islands, will be named as the American judge to serve on the commission of inquiry at Shanghai.	705
Sept. 10 (389)	<i>From the Minister in China (tel.)</i> Letter received from the British Chargé transmitting British Government's pledge in regard to McEuen's retirement. Inquiry if assurance is satisfactory.	706
Sept. 11 (241)	<i>To the Minister in China (tel.)</i> Instructions to inform the British Chargé that the assurance given is satisfactory, and that the Minister is ready to proceed with negotiations with the Chinese Government regarding the Shanghai incident.	706
Sept. 15 (Circular 259)	<i>From the Netherlands Minister in China, Senior Minister, to the American Minister</i> Telegram from the senior consul at Shanghai stating that the Municipal Council confirms its agreement to conform to the conclusions of the judicial commission and to suspend the commissioner of police before the first meeting of the commission. Letter to the Chinese Foreign Minister (text printed) transmitting a certified copy of the terms of reference for the commission of inquiry.	707
Oct. 3 (Circular 273)	<i>From the Netherlands Minister in China, Senior Minister, to the American Minister</i> Note from the Chinese Foreign Minister, October 2 (text printed), stating that the Chinese Government maintains its attitude that a judicial inquiry is unnecessary and will only involve a waste of time.	708
Oct. 9 (431)	<i>From the Minister in China (tel.)</i> First meeting of commission of inquiry, October 7. Telegram from Johnson, October 7 (text printed), reporting adjournment of sessions until October 12 to enable all parties to prepare their evidence; stating that apparently the Chinese witnesses will not appear; and asking if the inquiry should proceed. Minister's reply that the inquiry should proceed.	710

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PARTICIPATION BY THE UNITED STATES IN EFFORTS TO SOLVE PROBLEMS ARISING FROM THE DISTURBANCES AT SHANGHAI—Continued

Date and number	Subject	Page
1925		
Oct. 14 (435)	<i>From the Minister in China (tel.)</i> Telegram from Johnson (text printed) reporting the existence of general opposition to the inquiry.	711
Oct. 15 (291)	<i>To the Minister in China (tel.)</i> Instructions to inform Johnson that he is free to take any necessary action to bring out facts and truth, even though this should compel him to make a minority report.	712
Oct. 16 (446)	<i>From the Minister in China (tel.)</i> Telegram from Johnson (text printed) stating that a minority report is imminent.	712
Oct. 28 (467)	<i>From the Minister in China (tel.)</i> Message from Johnson reading, "Court has finished inquiry and I will make report in 6 to 10 days."	712
Nov. 21 (492)	<i>From the Minister in China (tel.)</i> Summary of Johnson's report, with list of the three concluding recommendations; comment that the report exceeds the terms of reference, as it gives conclusions and recommendations beyond the scope of the inquiry. Minister's opinion that it is unfortunate that dicta of a controversial political nature should be contained in a judicial finding intended to be published at this time.	713
Nov. 24 (324)	<i>To the Minister in China (tel.)</i> Department's surprise that Johnson took up matters outside the scope of the inquiry. Request for information as to whether matters of the same general nature are also dealt with in reports of the other judges.	715
Nov. 25 (498)	<i>From the Minister in China (tel.)</i> Information that the British and Japanese judges in their reports keep within the limits of the terms of reference.	716
Nov. 27 (500)	<i>From the Minister in China (tel.)</i> Telegram to Shanghai (text printed) quoting message of the U. S., British, and Japanese Ministers to their respective consuls in Shanghai which outlined the differences in the findings of the judicial commission and suggested the desirability of certain action by the Municipal Council, including the offer of generous compensation to the victims of the Shanghai incident, and the devising of ways of dispensing with the services of the police commissioner and the officers actually involved in the incident.	716
Dec. 3 (355)	<i>To the Ambassador in Great Britain (tel.)</i> Résumé of information contained in telegram No. 500, November 27, from the Minister in China. Authorization to state to the Foreign Office that, while it is regrettable that the commission should have disagreed in its findings, the U. S. Government feels that it would be disastrous at present to suppress, edit, or delay the publication of the findings of the judicial commission. (Footnote: Authorization to Ambassador in Japan to repeat substantially the same views to the Japanese Foreign Office.)	717

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PARTICIPATION BY THE UNITED STATES IN EFFORTS TO SOLVE PROBLEMS ARISING FROM THE DISTURBANCES AT SHANGHAI—Continued

Date and number	Subject	Page
1925		
Dec. 12 (525)	<i>From the Minister in China (tel.)</i> Authorization by the diplomatic body for certain Ministers to suggest to the Municipal Council the adoption of measures to settle the affair of May 30, namely, the resignation of the responsible police officers and the offer of reasonable amounts to the Chinese victims.	720
Dec. 21 (538)	<i>From the Minister in China (tel.)</i> Withdrawal of objections by Japan to the publication of the reports. Adoption by the Municipal Council of the suggestions outlined by the diplomatic body.	721
Dec. 22 (540)	<i>From the Minister in China (tel.)</i> Information that the interested Ministers have authorized the Senior Minister to release to the press on December 23 certain documents relative to the judicial inquiry, and that publication of full texts of the reports will follow in due course. (Footnote: Minister's report, January 22, 1926, that texts of the reports were to be released to the press on January 23.)	721

SPREAD OF ANTIFOREIGN DISTURBANCES IN CHINA

1925		
Jan. 12 (15)	<i>From the Minister in China (tel.)</i> Article in Shanghai conservative press declaring that a serious wave of antiforeign and anti-Christian feeling is sweeping across China. Information from the consul general at Shanghai, in reply to the Minister's inquiry, that missionaries and educators have received reports from interior correspondents concerning anti-Christian move.	722
Jan. 16 (27)	<i>From the Minister in China (tel.)</i> Telegram from consul general at Shanghai, January 15 (text printed), giving opinion of Dr. Pott, missionary educator in China, that the anti-Christian move looks worse than he thought at first and he regards it as political. Quotation from editorial in the <i>Chinese Recorder</i> , monthly journal of the Christian movement in China, concerning the critical situation.	724
Feb. 5 (60)	<i>From the Minister in China (tel.)</i> Telegram from Canton, February 4 (text printed), reporting continuation of antiforeign campaign.	725
June 4 (201)	<i>From the Chargé in China (tel.)</i> Telegram from the consul at Changsha, June 3 (text printed), reporting strike of students in Changsha because of the Shanghai incident of May 30.	725
June 6 (207)	<i>From the Chargé in China (tel.)</i> Telegram from the consul at Amoy (text printed) reporting student demonstration and strong feeling against Japanese and British.	726
June 7 (208)	<i>From the Chargé in China (tel.)</i> Telegram from the consul at Nanking, June 6 (text printed), reporting serious rioting in Chinkiang British Concession.	726

CHINA

SPREAD OF ANTIFOREIGN DISTURBANCES IN CHINA—Continued

Date and number	Subject	Page
1925 June 10 (214)	<i>From the Chargé in China (tel.)</i> Telegram from the consul at Antung, June 9 (text printed), reporting attack of Japanese police on Salt Gabelle patrol attempting to arrest Korean smugglers off shore of Japanese Concession, killing five Chinese.	726
June 13 (218)	<i>From the Chargé in China (tel.)</i> Reports of student strikes and parades at Foochow, Tsinan, and Tsingtau, and other disturbances at Swatow and Canton.	727
June 13 (219)	<i>From the Chargé in China (tel.)</i> Telegram from the consul general at Hankow, June 12 (text printed), reporting incident at British Concession resulting in several casualties among Chinese.	727
June 13 (220)	<i>From the Chargé in China (tel.)</i> Telegram from Swatow, June 10 (excerpt printed), stating that there is reason to believe effort is being made by Bolshevik agitators to involve the United States, but up to the present time students and other organizations have shown no definite anti-American feeling.	728
June 14 (226)	<i>From the Chargé in China (tel.)</i> Report, through radio from Admiral McVay, that Japanese and British consulates at Kiukiang were destroyed by mob on June 13; no casualties reported.	728
June 15 (228)	<i>From the Chargé in China (tel.)</i> Consideration by Heads of Legation of an offer from Chang Tso-lin to send 10,000 soldiers to Peking to restore order; Chargé's statement that the acceptance of such aid might compromise U. S. neutrality; similar expression by the British Chargé. Decision by Heads of Legation to reply to Chang in the affirmative, however, not opposed by U. S. and British representatives, but formula (text printed) worded in such a way as probably not to compromise neutrality.	729
June 15 (229)	<i>From the Chargé in China (tel.)</i> Report of British and Japanese consulates and British municipal building at Kiukiang looted and bank of Taiwan burned; serious situation at Chungking and Hankow.	731
June 16 (231)	<i>From the Chargé in China (tel.)</i> Information that the Senior Minister called on the Chief Executive and secured from him assurance of protection of life and property of foreign residents in Peking. Some relief of tension at Peking. Report of recent satisfactory interview with representative of Shanghai students.	731
June 16 (108)	<i>To the Chargé in China (tel.)</i> Department's approval of Chargé's attitude as set forth in his telegram No. 228, June 15.	732
June 17 (234)	<i>From the Chargé in China (tel.)</i> Note from Heads of Legation to be presented to the Wai-chiaoupu reviewing the Hankow, Kiukiang, and Chinkiang incidents and recent murder of foreigners near the Shanghai Settlement; and calling to the serious attention of the Chinese Government the gravity of the present situation and the necessity incumbent upon it to meet the situation.	733

CHINA

SPREAD OF ANTIFOREIGN DISTURBANCES IN CHINA—Continued

Date and number	Subject	Page
1925 June 18 (110)	<i>To the Chargé in China (tel.)</i> Secretary's informal statement to the Chinese Minister, June 15 (text printed), that the Department views with apprehension the continued antforeign demonstrations and disturbances in China and feels that something should be done by the Chinese Government to prevent the spread of those disturbances.	733
June 19 (235)	<i>From the Chargé in China (tel.)</i> Message from consul at Chungking (text printed) stating that no reports have yet been received justifying advice to Americans to be in readiness to leave.	734
June 24 (246)	<i>From the Chargé in China (tel.)</i> Telegram from the consul at Amoy, June 23 (text printed), reporting grave situation and recommending that naval assistance, with landing party of about 100, be sent immediately.	735
June 27 (251)	<i>From the Chargé in China (tel.)</i> Offer of assistance from Chang Hsueh-liang, son of Chang Tso-lin, made to Heads of Legation to bring about a speedy conclusion of the Shanghai incident; reply, as suggested by U. S. and British Chargés, conveying a polite rejection of the offer.	735
July 16 (275)	<i>From the Minister in China (tel.)</i> Telegram from the consul at Swatow, July 11 (text printed), reporting that Cantonese troops attacked and looted British mission at Wukingfu on July 9.	736
July 31 (303)	<i>From the Minister in China (tel.)</i> Message from Amoy (text printed) recommending U. S. cooperation with the British in the matter of naval protection; opinion that presence of a naval vessel will have a restraining influence on the extremist elements.	737
Aug. 30 (363)	<i>From the Minister in China (tel.)</i> Report from the consul at Amoy that the situation is quiet; presence of naval vessel no longer necessary.	737
Sept. 9 (384)	<i>From the Minister in China (tel.)</i> General abatement of the tensivity of Chinese feeling, such as to warrant hope that crisis has passed.	738

VICTORY OF THE RADICAL WING OF THE KUOMINTANG IN CANTON

1925 May 29 (192)	<i>From the Chargé in China (tel.)</i> Telegram from the consul general at Canton, May 28 (substance printed), reporting breach in the Kuomintang, conservative members being allied with Yunnan and Kwangsi military groups, and the radicals, including the present civil administration, with Cantonese troops and Russian-trained volunteers.	740
June 2 (195)	<i>From the Chargé in China (tel.)</i> Telegram from the consul general at Canton, June 1 (text printed), reporting local conditions critical, with every indication of the Government's intention to fight, despite its denial that it is Communist.	740

CHINA

VICTORY OF THE RADICAL WING OF THE KUOMINTANG IN CANTON—Continued

Date and number	Subject	Page
1925 June 5[6?] (205)	<i>From the Chargé in China (tel.)</i> Telegram from the consul general at Canton, June 5 (text printed), reporting military preparations of both sides and the understanding that General Hsu's Cantonese army is within 40 miles of Canton.	741
June 9 (212)	<i>From the Chargé in China (tel.)</i> Telegram from the consul general at Canton, June 7 (text printed), reporting that fighting has begun, and that all Americans are safe so far.	741
June 9 (213)	<i>From the Chargé in China (tel.)</i> Telegram from the consul general at Canton, June 8 (text printed), reporting continued firing by the opposing forces.	741
June 14 (223)	<i>From the Chargé in China (tel.)</i> Telegram from the consul general at Canton, June 13 (text printed), reporting the Yunnanese routed and all in the city surrendered to the Cantonese, June 12; also that seamen's strike will begin in Canton and Hongkong on June 15 in sympathy with the Shanghai students.	742
June 15 (227)	<i>From the Chargé in China (tel.)</i> Telegram from the consul general at Canton, June 14 (text printed), reporting antiforeign agitation and considerable uneasiness in Canton and other cities; also domination of the local situation by the Whampoa military school cadets, who were responsible for the destruction of the Yunnan army.	743
July 22 (284)	<i>From the Minister in China (tel.)</i> Message from Canton (text printed) that the central executive committee of the Kuomintang has called a preliminary people's conference to be held in Peking after August 1 to cancel unequal treaties; and that it has urged the Chief Executive to accept the Kuomintang's advice rather than that of Chang Tso-lin.	743
Aug. 24 (347)	<i>From the Minister in China (tel.)</i> Substance of two telegrams from Canton reporting the assassination on August 20 of Liao Chung-hoi, head of the local radical movement.	744
Aug. 27 (355)	<i>From the Minister in China (tel.)</i> Telegram from Canton, August 25 (text printed), stating that the Whampoa cadets have occupied Canton and arrested over 100 government officials supposedly implicated in the assassination of Liao Chung-hoi.	744
Aug. 30 (365)	<i>From the Minister in China (tel.)</i> Telegram from Canton, August 27 (extracts printed), reporting city in complete control of the Whampoa cadets and the civil administration badly disorganized.	744
Aug. 31 (369)	<i>From the Minister in China (tel.)</i> Telegram from the consul general at Canton, August 28 (text printed), stating that according to fairly reliable reports, the strike committee has decided to confine the strike and boycott to the British.	745
Sept. 4 (382)	<i>From the Minister in China (tel.)</i> Telegram from the consul general at Canton, September 1 (text printed), reporting inability of the strike committee to agree to confine the strike and boycott to the British only.	745

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VICTORY OF THE RADICAL WING OF THE KUOMINTANG IN CANTON—Continued

Date and number	Subject	Page
1925 Sept. 25 (416)	<i>From the Minister in China (tel.)</i> Telegram from the consul general at Canton, September 21 (text printed), reporting that General Hsu has been relieved of his command and has left hurriedly for Shanghai.	746
Oct. 7 (428)	<i>From the Minister in China (tel.)</i> Telegram from Canton, October 2 (text printed), reporting mobilization of the Canton army.	746
Oct. 16 (447)	<i>From the Minister in China (tel.)</i> Telegram from Canton, October 15 (text printed), reporting that a state of emergency has been declared in the Boca-Tigris fort area and that all adjacent waters have been mined; also suggesting a statement as to U. S. attitude regarding the safe conduct of U. S. vessels, and possible protest against the placing of mines. Request for authorization to approve the consul general's recommendations.	746
Oct. 24 (463)	<i>From the Minister in China (tel.)</i> Telegram from Canton, October 20 (text printed), reporting severe fighting in eastern Kwangtung.	747
Oct. 29 (308)	<i>To the Minister in China (tel.)</i> Authorization to approve recommendations of the consul general at Canton as suggested in telegram No. 447, October 16.	747
Nov. 6 (477)	<i>From the Minister in China (tel.)</i> Telegram from Swatow, November 4 (excerpt printed), reporting the Cantonese in possession of the city.	748
Nov. 9 (478)	<i>From the Minister in China (tel.)</i> Telegram from Swatow, November 7 (text printed), reporting arrival of Chiang Kai-shek, November 6, with several thousand troops.	748
Nov. 23 (493)	<i>From the Minister in China (tel.)</i> Inquiry from the consul at Swatow whether, in view of the possibility that the Canton Government may take over the maritime customs at Swatow, action should be taken similar to that of the consul general at Canton in 1923. Request for instructions.	748
Nov. 23 (321)	<i>To the Minister in China (tel.)</i> Secretary's assertion that he questions the advisability at this time of conducting an international naval demonstration such as was carried out at Canton in 1923. Approval of formal representations if necessary, however.	748

INTENSIFICATION OF ANTIFOREIGN FEELING IN CANTON AFTER THE FIRING AT SHAMEEN

1925 June 19 (236)	<i>From the Chargé in China (tel.)</i> Telegram from the consul general at Canton, June 18 (text printed), reporting the imminence of a general strike against foreigners and the consul general's warning to American women and children to leave.	749
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INTENSIFICATION OF ANTIFOREIGN FEELING IN CANTON—Continued

Date and number	Subject	Page
1925 June 22 (239)	<i>From the Chargé in China (tel.)</i> Telegram from the consul general at Canton, June 21 (text printed), reporting announcement of a general strike and boycott against the British, Japanese, and Americans.	749
June 23 (243)	<i>From the Chargé in China (tel.)</i> Telegram from the consul general at Canton, June 22 (text printed), reporting assurances from the local authorities that foreigners will be protected, and giving further details in regard to the strike and boycott.	750
June 24	<i>From the Consul General at Canton (tel.)</i> Rifle and machine-gun firing between Chinese soldiers and British and French sailors on June 23 during a demonstration of students, laborers, and soldiers passing by Shameen.	750
June 26 (336)	<i>From the Consul General at Canton</i> Detailed account of the firing which took place at Shameen, June 23, including estimation of casualties and information as to evacuation of refugees. Tension and uncertainty of the situation.	751
June 26	<i>From the Consul General at Canton (tel.)</i> Continuation of tense situation, each side accusing the other of firing the first shot, and no overtures for a peaceful settlement yet possible. Chinese request that the consul general sit on an international commission of inquiry; request for expression of U. S. attitude.	754
June 28	<i>From the Consul General at Canton (tel.)</i> Information that the local government has sent notes to the British consul general and the French consul demanding retrocession of Shameen, apology, remuneration to the families of the killed, punishment of officials responsible for shooting, and withdrawal of warships.	755
June 28	<i>From the Consul General at Canton (tel.)</i> Recommendation that the Department suggest to Great Britain and France that an international commission be created and that the Canton affair be dealt with separately from Peking.	755
July 1	<i>To the Consul General at Canton (tel.)</i> Instructions, in reply to the consul general's telegram of June 26, to decline to sit on the proposed commission of inquiry except under certain circumstances, in which case further instructions should be sought.	756
July 3 (260)	<i>From the Chargé in China (tel.)</i> Telegram from the consul general at Canton, July 1 (text printed), stating that nothing is being said at present in regard to the proposed commission of investigation.	756
July 8 (340)	<i>From the Consul General at Canton</i> Information that Americans who volunteered in militia and police forces of Shameen withdrew upon finding British and French authorities did not intend asking for assistance of American naval forces. Consul general's encouragement to Americans, however, to lend aid in maintaining public services of nonmilitary character.	757

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INTENSIFICATION OF ANTIFOREIGN FEELING IN CANTON—Continued

Date and number	Subject	Page
1925 July 31 (301)	<i>From the Minister in China (tel.)</i> Telegrams from Canton, July 27 and July 28 (texts printed), reporting general situation apparently less strained but no indications of a settlement locally, and rumor that the radicals will attempt to seize the local government on August 1.	757
Aug. 14 (329)	<i>From the Minister in China (tel.)</i> Inquiry as to U. S. policy, in view of possible attack on the French and British Concessions at Shameen, regarding the utilization of U. S. naval forces. Recommendation that the U. S. forces remain in order to protect American citizens and that they be authorized to unite in such defense measures as the commander may deem necessary to accomplish that end after mediation appears no longer possible.	758
Aug. 15 (202)	<i>To the Minister in China (tel.)</i> Approval of policy as recommended by the Minister, with the understanding that U. S. forces should not participate in the defense of Shameen unless specifically requested to do so by the naval authorities of the countries concerned.	760
Oct. 16 (304)	<i>From the Consul General at Canton to the Minister in China</i> Improvement in general attitude toward Americans, but conditions still too unsettled to advise American women and children to return.	761

ADHERENCE OF CERTAIN POWERS TO TREATIES CONCERNING CHINA SIGNED AT WASHINGTON, FEBRUARY 6, 1922

1925 Aug. 6	<i>To the Ambassador in Spain (circular tel.)</i> Note for the Foreign Minister (text printed) stating that the treaty relating to the revision of the Chinese customs tariff, signed at Washington, February 6, 1922, has been ratified by the signatory Governments, and inviting the adherence of Spain to the treaty. (Footnote: Sent, <i>mutatis mutandis</i> , to representatives in Denmark, Norway, and Sweden.) (Note: Dates of adherence of Denmark, Sweden, Spain, and Norway.)	761
Oct. 1 (288)	<i>To the Ambassador in Spain</i> Communication inviting the adherence of Spain to the treaty relating to the principles and policies to be followed in matters concerning China, signed at Washington, February 6, 1922. (Footnote: Sent, <i>mutatis mutandis</i> , to representatives in certain European and Latin American countries and Persia.) (Note: Dates of adherence of Norway, Bolivia, Sweden, Denmark, and Mexico.)	762

REQUEST FROM THE CHINESE GOVERNMENT TO THE WASHINGTON CONFERENCE POWERS FOR A READJUSTMENT OF TREATY RELATIONS

1925 June 24 (247)	<i>From the Chargé in China (tel.)</i> Identical note from the Chinese Foreign Office addressed to the representatives of the Washington Conference powers (text printed) requesting a readjustment of China's treaty relations	763
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REQUEST FROM THE CHINESE GOVERNMENT TO THE WASHINGTON CONFERENCE
POWERS FOR A READJUSTMENT OF TREATY RELATIONS—Continued

Date and number	Subject	Page
1925 June 26 (249)	<i>From the Chargé in China (tel.)</i> Identic telegram from the representatives of the Washington Conference powers to their respective Governments (text printed) requesting instructions with reference to the Chinese Government's identic note of June 24. Chargé's opinion that the reply, while reaffirming the principles and policies of the Washington Conference, should indicate the practical difficulties involved and the necessity for facing facts. (Telegram repeated to Tokyo.)	765
June 30 (116)	<i>From the Ambassador in Japan (tel.)</i> Agreement with views of the Chargé in China; feeling that the Chinese proposal should be neither rebuffed nor received in such a manner as to convey an impression that the powers are yielding under pressure.	766
July 1 (125)	<i>To the Chargé in China (tel.)</i> Department's opinion that the reply to the Chinese proposal should express a willingness to consider sympathetically the modification of existing treaties in measure as the Chinese authorities demonstrate their willingness and ability to fulfill their obligations to protect foreign rights. U. S. desire also to expedite preparations for the special conference on the Chinese customs tariff and for the despatch of the Commission on Extraterritoriality, said commission to be requested to make recommendations for a definite program to be followed.	767
Undated	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Statement by the Secretary, in conversations with the Chinese Minister, June 30 and July 1, that the United States would be willing to urge upon the other interested powers the hastening of the calling of the conference on tariff matters, and also the sending of the Commission on Extraterritoriality.	768
July 3 (677)	<i>From the British Chargé</i> Opinion of the British Government that the powers should indicate an unwillingness to discuss particular reforms or to review treaty relations until order has been restored and the Chinese Government has evidenced its determination to repress antiforeign agitations and enforce protection of foreigners; unfavorable attitude toward a promise to expedite the meeting of the Commission on Extraterritoriality.	770
July 5 (263)	<i>From the Chargé in China (tel.)</i> Conversation with the Japanese Minister in regard to settlement of the Shanghai affair; belief of the Japanese Minister that his Government contemplates a larger cooperation between the U. S., British, and Japanese Governments with respect to China than merely cooperation regarding the Shanghai affair.	771
July 6 (134)	<i>To the Chargé in China (tel.)</i> Telegram dated July 4 from Mahlon F. Perkins, on special mission in London (text printed), conveying opinion of British Foreign Office official that it would be preferable to concentrate efforts on the early convening of the special conference on Chinese customs tariff rather than upon meeting of the extraterritoriality commission.	774

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REQUEST FROM THE CHINESE GOVERNMENT TO THE WASHINGTON CONFERENCE
POWERS FOR A READJUSTMENT OF TREATY RELATIONS—Continued

Date and number	Subject	Page
1925 July 6 (682)	<i>From the British Chargé</i> British Government's sympathy with the U. S. aims as set forth in Department's telegram No. 125, July 1, to the Chargé in China; doubt expressed, however, as to the wisdom of laying down such definite terms of reference for the Commission on Extraterritoriality as those suggested by the Department.	775
July 7 (683)	<i>From the British Chargé</i> Proposal of a joint declaration (text printed) to be made publicly by the treaty powers in reply to the Chinese note of June 24. Inquiry as to U. S. attitude.	776
July 10	<i>From the Secretary to the President (Sanders) to the Acting Secretary of State</i> President's opinion that the Secretary of State should cooperate as far as possible with the other interested powers, using great care not to have China think there is a division of counsel.	777
July 10 (270)	<i>From the Chargé in China (tel.)</i> From MacMurray: Opinion that, in the face of the present agitation against foreign treaty rights, a strict adherence to the Washington Conference program is the only safe road.	778
July 12 (124)	<i>From the Ambassador in Japan (tel.)</i> Foreign Office views of the primary importance of complete accord between the United States, Great Britain, and Japan. Information that the Japanese position will be defined shortly.	779
July 13	<i>To the British Chargé</i> U. S. accord with British opinion that China must be impressed with the necessity of giving concrete evidence of its ability to suppress disorders and protect foreigners; feeling, however, that existing conditions in China can best be met by consistent and scrupulous observance by the powers of the obligations undertaken by them at the Washington Conference. Further exposition of U. S. attitude on the instructions to be given the Commission on Extraterritoriality. Opinion that the present is not an opportune moment for a joint public declaration such as proposed by the British Government in its note No. 683, July 7. (Footnote: Substance repeated to the representatives in Japan, France, Belgium, the Netherlands, Italy, and Portugal.)	780
Undated	<i>From the Japanese Embassy</i> Memorandum presented July 16 stating willingness of the Japanese Government to support a policy looking toward a readjustment of treaty relations in China conjointly with the other powers, provided the Chinese Government shows a determination to carry out its obligations and provided certain questions are settled.	783
July 16 (277)	<i>From the Minister in China (tel.)</i> Opinion that the United States should welcome any offer from the British and Japanese to work as far as possible in harmony with them, but should carefully avoid any commitments or obligations which might hinder the maintenance of U. S. policies and views regarding China.	785

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REQUEST FROM THE CHINESE GOVERNMENT TO THE WASHINGTON CONFERENCE
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Date and number	Subject	Page
1925 July 18 (157)	<i>To the Minister in China (tel.)</i> Secretary's concurrence in the Minister's opinion as to the attitude that should be taken by the United States; view that there should be no agreement with the powers whereby the U. S. general policy would be varied. Request for views as to the desirability of a separate note in reply to the Chinese note of June 24.	788
July 20 (701)	<i>From the British Chargé</i> British Government's opinion that it would be inadvisable to delay acquainting China with attitude of the powers. Outline of the statements which the British Government feels should be contained in the reply to the Chinese Government.	788
July 20 (702)	<i>From the British Chargé</i> Amendments suggested by the Japanese Government to the joint declaration proposed by the British Government; British approval of the amendments.	790
July 20 (703)	<i>From the British Chargé</i> Italian proposal that the identic reply by the powers to the Chinese note of June 24 should embody and itself constitute the public declaration previously suggested by the British Government.	791
Undated [Rec'd July 21]	<i>From the Japanese Embassy</i> Japanese draft of the proposed joint declaration in reply to the Chinese note of June 24.	792
July 23	<i>To the British Chargé</i> Assertion that the only point of difference among the powers appears to be in regard to the precise phraseology of the reply to the Chinese representations. Opinion that, as a matter of practical policy, it would be preferable to convey fair warning to the Chinese Government of its responsibility for the preservation of order and other matters rather than to make complete restoration of order a condition precedent to a discussion of reforms and treaty relations. U. S. draft reply (text printed). (Footnote: Countries to which text of the draft reply was telegraphed.)	793
July 23 (165)	<i>To the Minister in China (tel.)</i> Communication of text of the U. S. draft reply, with instructions to use it as a basis for discussion with the representatives of the other interested powers. (Instructions to repeat to Tokyo.)	797
July 27 (292)	<i>From the Minister in China (tel.)</i> Suggestion of certain changes in wording of the U. S. draft, particularly in the paragraph dealing with tariff revisions. Recommendation that if it should prove impossible to obtain almost immediate concurrence in an identic note based upon U. S. draft, the United States should send its own note and let the others reply as they see fit to the Chinese note of June 24.	798
July 28 (293)	<i>From the Minister in China (tel.)</i> Analysis of tentative impressions regarding the situation in China, with particular reference to the growing nationalism and the consequent difficulty of maintaining special treaty rights in China.	799

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REQUEST FROM THE CHINESE GOVERNMENT TO THE WASHINGTON CONFERENCE
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1925 July 28 (170)	<i>To the Minister in China (tel.)</i> Comment on the Minister's suggested changes in wording of the U. S. draft reply to the Chinese note of June 24, and approval of his recommendation as set forth in telegram No. 292, July 27.	802
July 29 (300)	<i>From the Minister in China (tel.)</i> Further expression of opinion, in connection with the wording of the U. S. draft, that the phrase "tariff autonomy" ought not to be used, and that the wording of the sentence in question is not clear as it stands; suggestion of substitute wording.	803
July 30 (301)	<i>From the Minister in China (tel.)</i> Conversation with the Japanese Minister, in which he suggested the establishment of a close working relationship between the U. S., British, and Japanese Legations, looking toward a more definite leadership by those powers having the greatest responsibilities and interests in China.	803
July 30 (173)	<i>To the Minister in China (tel.)</i> Instructions for wording of the passage in the U. S. draft regarding the tariff, so that the U. S. position will be clear.	804
July 30 (723)	<i>From the British Charge</i> Information that, as the U. S. draft differs so radically from the Anglo-Japanese text, the British representative in China has been authorized to discuss the two texts with the U. S. Minister and his other colleagues in the hope of combining both in a new agreed text. British disapproval of the statement in the U. S. draft with regard to the Extraterritorial Commission, and objection to the term "tariff autonomy."	805
Aug. 1 (180)	<i>To the Minister in China (tel.)</i> Secretary's conversation with the Japanese Ambassador, who indicated Japanese disagreement with U. S. proposal to make reference in the powers' note to China to the questions of extending the scope of the tariff conference and also of tariff autonomy. Secretary's reiteration of U. S. position and explanation of the phraseology which will be acceptable to the United States and which it is hoped will meet the objections of the Japanese Government.	806
Aug. 1 (306)	<i>From the Minister in China (tel.)</i> Conversation with the Japanese Minister, who expressed his Government's difficulty in assenting to the U. S. draft insofar as it conveys a formal promise to consider tariff autonomy at the special conference. U. S. Minister's personal view that it would be tactically unsound to announce publicly at this time a readiness to go beyond the terms of the Washington Conference provisions for the special conference. Request for instructions.	807
Aug. 3 (181)	<i>To the Minister in China (tel.)</i> Readiness of the British Government, as well as the U. S. Government, to extend the scope of the tariff conference. Summary of British note No. 723, of July 30.	810

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Date and number	Subject	Page
1925 Aug. 4 (142)	<p><i>From the Chargé in Japan (tel.)</i> Statement of the Vice Minister for Foreign Affairs that for the present the Japanese Government are not prepared to go beyond the terms of the Washington Conference in any discussion with the Chinese Government; his reiteration of Japanese desire to work with U. S. and British Governments in meeting the present situation, and assertion that the Washington Conference provided a basis upon which all agreed.</p>	812
Aug. 5 (311)	<p><i>From the Minister in China (tel.)</i> Suggested modifications in the U. S. draft to meet what the Minister understands to be the British views.</p>	813
Aug. 5	<p><i>To the British Chargé</i> Reply to the British note No. 723, of July 30, pointing out an apparent misinterpretation by the British Government of the statement in the U. S. draft with respect to the Extraterritorial Commission.</p>	814
Aug. 6	<p><i>To the British Chargé</i> Information that the Department, desiring to meet the British point of view, has authorized the U. S. Minister in China to make certain changes in the text of the U. S. draft. Hope that with these amendments the British Government will find itself able to accept the American draft.</p>	815
Aug. 7 (193)	<p><i>To the Minister in China (tel.)</i> Information as to the comments of various Governments in regard to the U. S. draft note to the Chinese Government: Concurrence of Belgium and the Netherlands in U. S. views; Italian agreement in principle with the essential points of the U. S. draft; French preference for the Japanese draft, considering the U. S. draft too mild in tone and the British perhaps too sharp.</p>	816
Aug. 11 (151)	<p><i>From the Chargé in Japan (tel.)</i> Foreign Minister's assertion that, so far as the Extraterritorial Commission is concerned, he is in substantial agreement with the American point of view; that concerning tariff, Japan could not go beyond the terms of existing treaties or the Washington Conference engagements.</p>	818
Aug. 11 (738)	<p><i>From the British Chargé</i> British concurrence in U. S. view regarding the Extraterritorial Commission as explained in the Secretary's note of August 5, and willingness to adopt the new U. S. draft as a basis for an identic reply to the Chinese Government.</p>	819
Aug. 19 (753)	<p><i>From the British Chargé</i> Indications that the Japanese Government may be inclined to question the inclusion of Chinese tariff autonomy in the agenda of the forthcoming conference, thus causing divergence of view among the powers and consequent delay in replying to the Chinese note. British willingness to concur if the United States and Japan agree to omit mention of the tariff or agree on a compromise formula.</p>	820

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Date and number	Subject	Page
1925 Aug. 22	<p><i>To the British Charge</i></p> <p>Information that the Japanese Government is willing to accept the U. S. modified draft with an amendment; U. S. willingness to accept the Japanese change provided it is acceptable to the other powers. Transmittal of the U. S. proposed draft embodying the modifications offered by the British and Japanese Governments.</p>	821
Aug. 26 (766)	<p><i>From the British Charge</i></p> <p>Information that, while in the opinion of the British Government the American draft embodying the British and Japanese modifications is not wholly suitable for an identic note, the British representative at Peking has been instructed to confer with his U. S. colleague with a view to reaching a definite agreement.</p>	822
Aug. 26 (353)	<p><i>From the Minister in China (tel.)</i></p> <p>Agreement reached with interested colleagues on a number of amendments to the draft note, all of which are matters of mere form. Information that certain of the representatives must await instructions from their Governments before sending the amended note.</p>	822
Aug. 31	<p><i>Statement Issued to the Press by the Department of State</i></p> <p>Text of speech by the Secretary before the annual meeting of the American Bar Association, Detroit, Mich., September 2, dealing with the present situation in China and U. S. policy in relation to Chinese affairs.</p> <p>(Footnote: For release by the press after delivery.)</p>	823
Sept. 1 (371)	<p><i>From the Minister in China (tel.)</i></p> <p>Information that all interested representatives have been instructed to send identic replies to the Chinese note of June 24 in the form agreed upon as reported in telegram No. 353, August 26.</p>	830
Sept. 4 (41)	<p><i>From the American Minister to the Chinese Minister for Foreign Affairs</i></p> <p>Reply to the Chinese Government's note of June 24, expressing willingness to consider the modification of existing treaties in measure as the Chinese authorities demonstrate their willingness and ability to fulfill their obligations and to protect foreign rights; and readiness to appoint delegates to the Special Conference on the Chinese Tariff, as provided for in the Washington Conference Treaty, February 6, 1922, and a commissioner to sit on the Commission on Extraterritoriality, as provided for in Resolution V of the Washington Conference.</p> <p>(Footnote: Presentation of identic notes by representatives of the other Washington Conference powers.)</p>	831

THE SPECIAL CONFERENCE ON THE CHINESE CUSTOMS TARIFF

1925 Apr. 23 (167)	<p><i>From the Chargé in China (tel.)</i></p> <p>Foreign Minister's desire to call the Special Conference on the Chinese Customs Tariff for September 1 at Peking, dependent upon French ratification of the nine-power customs treaty.</p> <p>(Footnote: Instruments of ratification of the customs treaty</p>	834
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THE SPECIAL CONFERENCE ON THE CHINESE CUSTOMS TARIFF—Continued

Date and number	Subject	Page
1925 Apr. 27 (85)	<i>To the Chargé in China (tel.)</i> Belief that after the customs treaty comes into force following its ratification by France, it would be appropriate for the Chinese Government to call the Special Conference; willingness to accept September 1 as the tentative date.	834
July 1 (195)	<i>From the Ambassador in Great Britain (tel.)</i> From Perkins: Foreign Office concurrence in the view that the Special Conference should convene at an early date. British emphasis on the importance of concerted action by the United States, Japan, and Great Britain. (Footnote: Mahlon F. Perkins, sent to London to confer with the Foreign Office regarding the Special Conference.)	835
July 1 (118)	<i>From the Ambassador in Japan (tel.)</i> Report of general views on certain points regarding the customs conference, as expressed by the U. S. Minister to China (en route to his post) in an informal conversation with the Japanese Foreign Minister; Foreign Minister's agreement with the views as stated.	836
Aug. 8 (320)	<i>From the Minister in China (tel.)</i> Information that the Senior Minister has raised the question of preparing definite agenda in advance of the conference. U. S. Minister's expression of preference for going into the conference with a program based strictly on the treaty; inquiry if Department approves this view.	838
Aug. 10 (198)	<i>To the Minister in China (tel.)</i> Approval of the Minister's views as to the agenda of the conference.	839
Aug. 19	<i>From the Chinese Minister</i> Invitation to the United States to participate in the Special Conference, to meet on October 26 at Peking.	839
Aug. 21	<i>To the Chinese Minister</i> U. S. acceptance of the invitation to participate in the conference.	840
Aug. 22 (342)	<i>From the Minister in China (tel.)</i> Identical telegram from the representatives of the powers signatory to the customs treaty to their respective Governments (text printed), indicating desirability that the powers should confer at Washington in regard to the furnishing of full powers to the delegates at Peking.	841
Aug. 27 (222)	<i>To the Minister in China (tel.)</i> U. S. decision to issue to its delegates at the Special Conference full powers to confer with the other delegates, and to negotiate, conclude, and sign treaties for ratification by the United States.	841
Sept. 9	<i>To the American Delegation</i> Instructions of a general character, including the opinion that the conference should discuss the entire subject of the conventional tariff, even proposals looking toward ultimate tariff autonomy; that the Chinese Government must be given an opportunity to present its plans regarding diminution and ultimate removal of likin; and that the conference should consider the advisability of using the surtax revenues for the refunding of China's unsecured obligations.	842

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THE SPECIAL CONFERENCE ON THE CHINESE CUSTOMS TARIFF—Continued

Date and number	Subject	Page
1925 Sept. 10 (388)	<i>From the Minister in China (tel.)</i> Personnel of the Chinese delegation; outline of what appears to be the tentative program of the Chinese Government for the conference.	847
Sept. 12 (248)	<i>To the Minister in China (tel.)</i> Approval of the tentative Chinese program, or some similar program. Substance of letter to Mr. Strawn, U. S. delegate, expressing the Secretary's desire that a plan be worked out, if possible, whereby tariff autonomy will now or eventually be given to China and extraterritoriality given up.	849
Sept. 18 (822)	<i>From the British Chargé</i> Information regarding instructions to the British delegation, namely, that the British Government has no intention of rejecting the Chinese request for eventual tariff autonomy, but feels that such autonomy can only come in stages.	850
Sept. 25 (418)	<i>From the Minister in China (tel.)</i> Mimeographed circular given to the Senior Minister by the Foreign Office for distribution, entitled, "Provisional Agenda for the Special Conference on Chinese Customs" (text printed).	851
Sept. 30 (423)	<i>From the Minister in China (tel.)</i> Foreign Office refusal to invite the Soviet Government and Germany to participate in the conference, as they do not have the eligibility requirement under the customs treaty. German Minister's desire that Germany should be enabled to adhere to the Washington Conference treaties and resolutions concerning China so as to cooperate in the policies set forth therein, even if not participating in the conference.	851
Oct. 1 (425)	<i>From the Minister in China (tel.)</i> Identical telegram from the interested representatives to their respective Governments (text printed), suggesting modifications in the provisional agenda drawn up by the Chinese Government, as transmitted in telegram No. 418, September 25. Minister's concurrence in advisability of the modifications; probable acceptability of the agenda as thus modified.	852
Oct. 3 (278)	<i>To the Minister in China (tel.)</i> U. S. inability to invite Germany and Soviet Russia to adhere to the Chinese customs treaty, as they do not qualify under the provisions of article 8; opinion also that neither country is qualified under Resolution V of the Washington Conference to participate in the coming meeting of the Commission on Extraterritoriality.	854
Oct. 5 (282)	<i>To the Minister in China (tel.)</i> Feeling that the Chinese Government's provisional agenda, offered in response to the suggestion of the Senior Minister, should be accepted.	854
Oct. 14 (290)	<i>To the Minister in China (tel.)</i> Statement to the Belgian Chargé, who had expressed Belgium's desire for inclusion of the Banque Belge pour l'Étranger among the foreign banks to receive deposits of surplus Chinese customs funds, that if the question of deposit of these funds is brought up at the conference the U. S. delegation will hold that banks of all nationalities be treated on a basis of equality.	856

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Date and number	Subject	Page
1925 Oct. 15 (443)	<p><i>From the Minister in China (tel.)</i></p> <p>Receipt of authorization by all but two of the interested ministers to approve the suggested modifications to the Chinese provisional agenda referred to in telegram No. 425, October 1; decision of the ministers to authorize Senior Minister to discuss the proposed modifications with the Foreign Minister.</p> <p>(Footnote: Senior Minister's statement, October 27, that agenda had been allowed to stand, because of insufficient time for making the alterations.)</p>	856
Oct. 15 (292)	<p><i>To the Minister in China (tel.)</i></p> <p>Approval of decision in regard to the Chinese tentative agenda reported in telegram No. 443, October 15.</p>	857
Oct. 17 (449)	<p><i>From the Minister in China (tel.)</i></p> <p>Report that the practical purposes of the Chinese financial authorities are sharply contested by the diplomatic and political elements, with the resulting probability that Chinese will enter the conference without any definite program of action.</p> <p>Request for instructions for guidance of the delegation in meeting any forms of discrimination that cannot be met by the most-favored-nation clause.</p>	857
Oct. 23 (303)	<p><i>To the Minister in China (tel.)</i></p> <p>Instructions to attain express assurance that there will be no discrimination and that when any benefit is granted to any country the other countries shall receive it unconditionally without request. Comments upon the possibility of disadvantageous treatment of American trade, despite acceptance of most-favored-nation treatment, resulting from either restrictions upon imports and exports, rate schedules, or classification of goods.</p>	859
Oct. 24 (464)	<p><i>From the American Delegation (tel.)</i></p> <p>Mandate of October 22 naming the Chinese delegates with full powers to the customs conference.</p>	860
Oct. 26	<p><i>From the Minister in China (tel.)</i></p> <p>Report of opening of the conference; résumé of addresses by Chinese officials and various diplomatic representatives of the powers (extracts printed); list of delegates who made brief addresses.</p>	861
Oct. 27 (5)	<p><i>From the American Delegation (tel.)</i></p> <p>Acceptance, after considerable discussion, of the agenda as set forth in the Minister's telegram No. 418, September 25, with U. S. and British reservation to the effect that any matter contained in the nine-power customs treaty or the resolution concerning board of reference should be open to discussion by the conference.</p>	866
Oct. 28	<p><i>From the Minister in China (tel.)</i></p> <p>Customs tariff laws promulgated October 24 (text printed) and referred to by Dr. Wang, Chinese delegate, in his address at the opening of the conference on October 26. Press communiqué issued by the secretary general of the conference (text printed) reporting first meeting of the committee on program and procedure.</p>	867

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THE SPECIAL CONFERENCE ON THE CHINESE CUSTOMS TARIFF—Continued

Date and number	Subject	Page
1925 Undated [Rec'd Oct. 30] (6)	<i>From the American Delegation (tel.)</i> Report of meeting of committee on tariff autonomy at which China reiterated request for tariff autonomy to be effective with the abolition of likin, January 1, 1929. Submittal of a tentative working basis (text printed) and suggestion that reasonable concessions be made to meet the Chinese demands.	870
Oct. 31	<i>From the Minister in China (tel.)</i> Substance of press communiqué issued by the committee on tariff autonomy (text printed), covering Japanese delegate's statement of alternative plans (text printed), Chinese memorandum on the abolition of likin (text printed), and résumé of the statements and proposals of various delegates.	871
Oct. 31 (2)	<i>To the American Delegation (tel.)</i> Approval of the tentative working basis submitted by the delegation and of the suggestion for making reasonable concessions to meet the Chinese demands.	875
Nov. 4	<i>From the Minister in China (tel.)</i> Report of second session of the committee on tariff autonomy, including texts of statement of the British delegation, proposals by the Japanese and American delegations, and declarations of the Chinese Government regarding abolition of likin.	875
Nov. 14 (10)	<i>From the American Delegation (tel.)</i> Information that the drafting of a formula embodying the sense of the conference regarding tariff autonomy and the abolition of likin was referred to a subcommittee, following presentation of Chinese resolution (text printed) and British proposal (text printed).	879
Nov. 17 (11)	<i>From the American Delegation (tel.)</i> Chinese delegate's statement in press interview (substance printed), declaring that China, although determined to abolish likin, is unwilling that the restoration of tariff autonomy be made conditional on her ability to do so, as the abolition of likin is an internal problem.	880
Nov. 19	<i>From the American Delegation (tel.)</i> Press communiqué issued by the conference (text printed) quoting resolution on tariff autonomy unanimously recommended by the subcommittee and adopted by the committees on tariff autonomy and provisional measures.	881
Nov. 24 (13)	<i>From the American Delegation (tel.)</i> Meeting of technical committee on likin, technical committee on other subjects, and subcommittee on rates.	882
Nov. 30 (5)	<i>To the American Delegation (tel.)</i> French Ambassador's statement, in conversation with the Secretary, that apparently his Government thought the granting of tariff autonomy without making abolition of likin a correlate should be safeguarded by an agreement that no other kind of tax would be imposed in lieu of likin.	883

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THE SPECIAL CONFERENCE ON THE CHINESE CUSTOMS TARIFF—Continued

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1925 Dec. 2 (14)	<i>From the American Delegation (tel.)</i> Probability that the situation is not fully understood by the French Ambassador; information that the delegates are waiting for China's statement on her unsecured debts and her definition of likin; that they will insist on abolition of likin as a condition to conceding tariff autonomy, but that such condition might be waived under certain circumstances.	883
Dec. 4 (6)	<i>To the American Delegation (tel.)</i> Letter from the Committee of the American Material Creditors of the Chinese Government alleging intention of the Chinese delegates to repudiate claims of material creditors and to exclude them from any plan for consolidation or refunding of unsecured debts. Request for information.	884
Dec. 7 (15)	<i>From the American Delegation (tel.)</i> No information that the Chinese delegates intend to repudiate claims of material creditors.	885
Dec. 30	<i>From Mr. Silas H. Strawn, of the American Delegation</i> Absence of train service between Tientsin and Peking December 8 to 24 because of the civil war; no meetings of the conference except two called by the Chinese to demonstrate to the people that the conference was still functioning.	885

CONVENING OF THE COMMISSION ON EXTRATERRITORIALITY IN CHINA, PROVIDED FOR BY RESOLUTION V OF THE WASHINGTON CONFERENCE

1925 July 2 (130)	<i>To the Chargé in China (tel.)</i> Department's opinion that the meeting of the Extraterritoriality Commission should not be put off until after the Special Customs Conference but should proceed at the earliest date possible.	886
Sept. 10	<i>To Mr. Silas H. Strawn</i> Transmittal of Mr. Strawn's commission as the American member of the Commission on Extraterritoriality.	886
Sept. 15	<i>To the Chargé in Japan (circular tel.)</i> Note for the Foreign Office (text printed) stating that the United States has named Mr. Silas H. Strawn as its Commissioner, and suggesting December 18 as the date for the beginning of the Commission's work. (Footnote: Sent, <i>mutatis mutandis</i> , to certain European countries and to Peru.)	887
Oct. 20 (299)	<i>To the Minister in China (tel.)</i> List of countries having accepted December 18 as the day, and Peking as the place, for the beginning of sessions of the Extraterritoriality Commission.	888
Nov. 18 (103)	<i>To the Minister in China</i> Substance of a conversation between the Secretary and the Chinese Minister: Secretary's opinion that it would not be wise to give the Commissioners plenipotentiary powers to negotiate a treaty for the abolition of extraterritoriality; Chinese Minister's cable to his Government (text printed) as to the functions of the Commission.	888

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CONVENING OF THE COMMISSION ON EXTRATERRITORIALITY IN CHINA—Con.

Date and number	Subject	Page
1925 Nov. 20	<i>From the Norwegian Minister</i> Information that the Norwegian Government has acceded to the Washington Conference Resolution on Extraterritoriality.	889
Dec. 17 (532)	<i>From the Minister in China (tel.)</i> Delay in meeting of the Extraterritoriality Commission until the arrival of certain of the Commissioners detained at Tientsin because of the factional fighting in progress.	889
1926 Jan. 4 (3)	<i>From the Minister in China (tel.)</i> Information that all Commissioners have arrived, and the Commission will convene on January 8. (Footnote: No meeting of the Commission until January 12.)	890

CONTINUED SUPPORT BY THE UNITED STATES TO THE FEDERAL TELEGRAPH COMPANY IN EFFORTS TO OBTAIN EXECUTION OF ITS CONTRACT WITH THE CHINESE GOVERNMENT

1924 Dec. 24	<i>From the Japanese Embassy</i> Summary of the points at issue between Japan and the United States in connection with the wireless contracts of the Mitsui Co. and the Federal Telegraph Co. with the Chinese Government. Proposal to adjust the controversy on a basis analogous to the four-power consortium arrangement, namely, that the contracts be pooled and superseded by a loan agreement for wireless enterprise in China, the Chinese Government to have control of the operation of the wireless telegraphy in question and a financial group representing U. S., British, French, and Japanese interests to supply the services of engineers and accountants.	890
Dec. 27 (317)	<i>To the Minister in China (tel.)</i> Information that Col. Manton Davis, attorney for the Radio Corporation of America, will sail for China to assist Barnes Moss, Federal Co.'s representative, in negotiations.	893
1925 Jan. 2 (3)	<i>From the Minister in China (tel.)</i> Chinese desire that the Federal Telegraph Co. send a representative with extensive powers and accompanied by a fully qualified expert to take up technical questions. Continuation of strong Japanese opposition to the Federal contract.	894
Jan. 7 (4)	<i>To the Minister in China (tel.)</i> Information from the Radio Corporation that Colonel Davis will be accompanied by an electrical expert. Request for comment on the Japanese proposal of December 24, 1924.	894
Jan. 23 (39)	<i>From the Minister in China (tel.)</i> Certain obstacles with which the execution of the Japanese proposal would be confronted; assertion that any proposal to pool the Federal contract in a consortium would require the consent of the Chinese Government, which might be impossible to obtain.	895

CHINA

CONTINUED SUPPORT BY THE UNITED STATES TO THE FEDERAL TELEGRAPH COMPANY—Continued

Date and number	Subject	Page
1925 Jan. 28 (16)	<i>To the Minister in China (tel.)</i> Possibility that the Radio Corporation may be unable to continue with the Federal Telegraph Co. project on the original plan; consequent reason to fear that the Japanese proposal may be the only available alternative. Department's desire for further comment in view of these possibilities.	897
Feb. 5 (61)	<i>From the Minister in China (tel.)</i> Suggestion that a conference be held in Peking between representatives of the Chinese Government and of all the companies with which China has radio agreements, to consult as to how best to coordinate the contracts for the most desirable results.	897
Feb. 21 (72)	<i>From the Minister in China (tel.)</i> Arrival of Davis and Moss. Assertion that, according to Moss, it would seem that China, faced with the possibility of having to accept a radio consortium of four powers, may be willing to accept the Federal contract with a few minor changes. Request for explicit instructions as to the support to be given to Davis and Moss.	899
Feb. 24 (24)	<i>To the Minister in China (tel.)</i> Instructions to employ complete frankness in discussions with the representatives of the U. S. interests. Opinion that the radio conference proposal as set forth in telegram No. 61, February 5, might cause the Federal Co.'s valid legal position to be compromised without assuring effective results.	900
Feb. 28	<i>To the Japanese Embassy</i> U. S. desire to be reassured as to whether the Japanese proposal of December 24, 1924, would be acceptable to the Chinese Government before giving it further consideration.	900
Mar. 12 (3)	<i>From Mr. Manton Davis to the Radio Corporation of America</i> Delay in official negotiations because of illness of Minister of Communications; satisfactory progress in unofficial negotiations. Strong Japanese effort to have Federal contract canceled. Outline of proposed traffic arrangement to serve as a basis for settlement of the controversy. (Footnote: Information that Mr. Davis' suggested traffic arrangement was approved by the Radio Corporation, the Federal Co. of Delaware, and the president of the Federal Co. of California.)	901
Mar. 23 (123)	<i>From the Minister in China (tel.)</i> Deadlock in negotiations, which the Federal Co.'s representatives attribute to Japanese influence in the Foreign Office and with the Chief Executive. Suggestion that strong U. S. representations telegraphed by the Chinese Minister in Washington might have an important effect at the Foreign Office at this juncture.	901
Apr. 8	<i>To the Japanese Embassy</i> U. S. suggestion of the traffic arrangement as set forth in Mr. Davis' telegram of March 12, as an alternative to the Japanese proposal of December 24, 1924.	902

CHINA

CONTINUED SUPPORT BY THE UNITED STATES TO THE FEDERAL TELEGRAPH COMPANY—Continued

Date and number	Subject	Page
1925 Apr. 8	<i>To the Chinese Legation</i> Transmittal of copy of the memorandum to the Japanese Embassy, April 8, and expression of desire for Chinese approval of the suggested arrangement.	903
Apr. 23 (168)	<i>From the Chargé in China (tel.)</i> Efforts to hasten conclusion of negotiations with the Federal Co.; Foreign Minister's assertion that the Chinese Minister in Washington had had negotiations with the State Department and that it was now necessary to await the Japanese reply to the U. S. proposal of April 8 before executing contract.	904
Apr. 28 (87)	<i>To the Chargé in China (tel.)</i> Instructions to inform Foreign Office that there are no negotiations pending with the Chinese Minister in Washington.	905
May 28 (566)	<i>From the British Ambassador</i> Information that, subject to the safeguarding of the prior rights of the Marconi Co., the British Government would welcome in principle the formation of a consortium such as proposed in the Japanese memorandum of December 24, 1924, to the United States.	905
June 1	<i>From the Japanese Embassy</i> Assertion that the plan suggested in the U. S. memorandum of April 8 is simply an operating arrangement and assumes abandonment by the Mitsui Co. of its legal position, without any corresponding concession by the Federal Co.; also that such an arrangement would not make for fair and impartial treatment of the other powers interested. Suggestion of possible desirability of a meeting of representatives of the U. S., British, French, and Japanese radio interests to examine the feasibility of the Japanese proposal of December 24, 1924, and to work out detailed terms of adjustment.	906
July 1 (117)	<i>From the Ambassador in Japan (tel.)</i> Report of a conversation between the Foreign Minister, the U. S. appointed Minister to China (MacMurray), and a representative of the Mitsui Co., in which U. S. objections to the Japanese proposal and Japanese objections to the U. S. counter-proposal were discussed, and in which all parties expressed desire and necessity for cooperation in reaching a settlement.	909
July 22 (704)	<i>From the British Chargé</i> Inquiry as to U. S. attitude toward the question of the future development of wireless telegraphy in China; British readiness to support the Japanese proposal to the United States of December 24, 1924.	910
July 29 (299)	<i>From the Minister in China (tel.)</i> Interview with the Foreign Minister, at which U. S. Minister emphasized the impossibility of satisfactory adjustment between the U. S. and Japanese interests until the Chinese Government has enabled the Federal Co. contract to proceed. Report that China may take up the question with Japan if the U. S. and Japanese interests cannot come to an agreement; suggestion that the Chinese Minister at Washington might be persuaded to telegraph his Government as to the seriousness of subordinating valid American rights to the veto of Japan.	911

CHINA

CONTINUED SUPPORT BY THE UNITED STATES TO THE FEDERAL TELEGRAPH COMPANY—Continued

Date and number	Subject	Page
1925 Sept. 3 (231)	<i>To the Minister in China (tel.)</i> Chinese Minister's statement that he had informed his Government that the U. S. Minister's note of August 29 was supported by the Secretary.	922
Sept. 12 (249)	<i>To the Minister in China (tel.)</i> Letter from the Radio Corporation requesting Department to consider the desirability of giving the corporation liberty to make such arrangements with foreign associates as it can to assure American participation in the wireless communications of China. Information that the Department is awaiting report of results of the Minister's representations to China before answering the letter.	923
Sept. 15 (399)	<i>From the Minister in China (tel.)</i> No reply as yet to the representations of August 26 and 29, and no indication as to what attitude the administration may take.	924
Sept. 15 (255)	<i>To the Minister in China (tel.)</i> Acknowledgment of Radio Corporation's letter with statement that the request is being carefully considered. Desire that Minister continue to impress upon the Chinese Government the importance which the United States attaches to this opportunity for China to demonstrate good faith.	925
Sept. 18 (404)	<i>From the Minister in China (tel.)</i> Arrangement for a further interview with the Chief Executive to urge a prompt answer to the representations. Suggestion that a message from President Coolidge be cabled for delivery to the Chief Executive.	925
Sept. 19 (258)	<i>To the Minister in China (tel.)</i> Secretary's desire that the Minister have an interview with the Chief Executive and urge him to recognize the Federal contract.	926
Sept. 19 (260)	<i>To the Minister in China (tel.)</i> Opinion that it would not be wise to have the President send a personal message to the Chinese Chief Executive.	927
Sept. 21 (405)	<i>From the Minister in China (tel.)</i> Chief Executive's assurance that the Federal contract will be carried out and that China will give whole-hearted support to the open-door policy. Minister's renewed assurances, upon inquiry by Tuan, of U. S. readiness to discuss a mutual accommodation of interests between the Federal and Mitsui Companies as soon as the Federal contract has been put into effect.	927
Sept. 22 (263)	<i>To the Minister in China (tel.)</i> Information that if the Japanese Ambassador makes inquiries regarding the Chinese wireless situation, as indicated by a press report from Tokyo, the Secretary will tell him that he is waiting to learn the results of the negotiations at Peking.	929
Sept. 29 (422)	<i>From the Minister in China (tel.)</i> Message from Davis for the Radio Corporation (text printed), stating that an agreement will possibly be signed soon.	929

CHINA

CONTINUED SUPPORT BY THE UNITED STATES TO THE FEDERAL TELEGRAPH COMPANY—Continued

Date and number	Subject	Page
1925 Oct. 5 (426)	<i>From the Minister in China (tel.)</i> Agreement reached for an interchange of notes, in which the Chinese Foreign Minister will state his Government's intention to give effect to the Federal contract, and the U. S. Minister will confirm assurances that following the first steps in the carrying out of the contract, the U. S. interests will discuss an arrangement for cooperation with the Chinese and Japanese; the interchange of notes to be accompanied by a <i>procès-verbal</i> in respect to certain details.	930
Oct. 8 (430)	<i>From the Minister in China (tel.)</i> Information that the notes have been exchanged and the <i>procès-verbal</i> initialed.	932
Undated [Rec'd Oct. 9]	<i>From the Japanese Embassy</i> Assertion that the Chinese proposal of August 28 (summarized in the U. S. Minister's telegram No. 360, August 29), is in substantial agreement with the Japanese proposal of December 24, 1924; hope that the basic principle for adjustment now found acceptable to both Chinese and Japanese Governments will be favorably received by the United States.	932
Undated [Rec'd Oct. 9]	<i>From the Japanese Embassy</i> Renewal of the suggestion of June 1 that the Japanese proposal of December 24, 1924, be submitted to a meeting of representatives of the radio interests of the various countries concerned to be examined as to its feasibility.	934
Dec. 29 (550)	<i>From the Minister in China (tel.)</i> Report that no progress has been made since the exchange of notes reported in telegram No. 430, October 8, because of absence of certain Cabinet Ministers from Peking and political instability.	935

EXECUTIVE ORDER BY PRESIDENT COOLIDGE REMITTING FURTHER PAYMENTS BY CHINA ON THE BOXER INDEMNITY

1925 July 16	<i>Executive Order No. 4268</i> Providing for the remission of further payments of the annual installments of the Chinese indemnity.	935
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GENERAL

SCRAPPING OF SHIPS BY THE UNITED STATES, GREAT BRITAIN, AND JAPAN IN ACCORDANCE WITH THE TREATY FOR THE LIMITATION OF NAVAL ARMAMENT, SIGNED FEBRUARY 6, 1922¹

500.A4b/301

The Secretary of the Navy (Wilbur) to the Secretary of State²

29440-178:17S

WASHINGTON, February 17, 1925.

SIR: I take pleasure in advising you that this Department has completed the work of the scrapping of vessels required to be demolished under the Treaty Limiting Naval Armament.

Under the provisions of the Treaty the Battle Cruisers *Lexington* and *Saratoga* are being converted into airplane carriers and the Battleship *North Dakota* is being retained as a target.

Respectfully,

CURTIS D. WILBUR

500.A4b/301

The Secretary of State to the Secretary of the Navy (Wilbur)

WASHINGTON, February 20, 1925.

MY DEAR MR. SECRETARY: In addition to the formal routine letter of February seventeenth³ in which I acknowledged the receipt of your letter of the same date advising me of the completion of the work of the scrapping of vessels required to be demolished under the treaty limiting naval armament, I desire to write you more personally an expression of my appreciation of the skill, the loyalty, and the carefulness of the public interest, with which your Department has carried to a conclusion the difficult task imposed upon it by the treaty. This work has, I realize, called for the most careful and judicious planning; and I feel that the way in which it has been carried out is worthy of the fine traditions of our naval service.

With high regard [etc.]

CHARLES E. HUGHES

¹ For text of treaty, see *Foreign Relations*, 1922, vol. I, p. 247.

² In telegrams dated Feb. 17, 6 p. m., the information contained in this letter was communicated to the Embassies in France, Great Britain, Italy, and Japan, with instructions to convey it to the respective Governments.

³ Not printed.

500.A4b/311

The Ambassador in Japan (Bancroft) to the Secretary of State

[Extract]

Foreign Service Report
No. 15Tokyo, March 6, 1925.
[Received March 24.]

On February 24th, 1925, the Minister for Foreign Affairs informed the Ambassador, in Note No. 22, a copy of a translation of which is enclosed herewith,⁴ that on February 9th, 1925, the Japanese Government completed the work of scrapping their vessels of war as provided for in the Treaty for the limitation of Naval Armament signed at Washington in February, 1922. A list, similar to that issued by the Japanese Navy Department, giving the names of the vessels which were scrapped and the manner in which they were disposed of was enclosed in the Foreign Minister's Note. A copy of this list is also enclosed herewith.⁴

500.A4b/312

The British Ambassador (Howard) to the Secretary of State

No. 298

WASHINGTON, March 24, 1925.

SIR: Under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to inform you that the work of scrapping the capital ships of the British Empire, which were required to be demolished in accordance with the treaty on the limitation of armaments signed at Washington in 1922, has been completed.

Mr. Chamberlain desires me to add that the battleships *Colossus* and *Agamemnon* have been retained under the provisions of the treaty, the former for non-combatant purposes and the latter as a target ship.

I have [etc.]

(For the Ambassador)
H. G. CHILTON

⁴Not printed.

PROPOSALS FOR THE CALLING BY THE PRESIDENT OF THE UNITED STATES OF A DISARMAMENT CONFERENCE

500.A12/38

*Excerpt From a Memorandum of a Conversation Between the British Secretary of State for Foreign Affairs (Chamberlain) and the American Ambassador (Kellogg), London, February 11 [10?], 1925*⁵

As to naval disarmament, he⁶ thought much more could be accomplished and rather intimated that he would welcome an invitation from the United States to hold such a conference. He did say that, as to land armament, Herriot⁷ had told him that if France were invited by the United States she would have to decline. As to naval armament he said he thought much more could be accomplished and he was hopeful that France could be induced not only to attend but to join in further agreement. He suggested much could be accomplished as in the size and time of renewal of battle ships; that this constantly increasing size of battle ships was an enormous expense. Why 35,000 tons, why not 25,000? Why a certain number of years? Four or five years added to the length of time for renewals would save an enormous expense. He suggested also that [*sic*] the limitation in the size of cruisers. Instead of having cruisers which would carry 1,200 men, cruisers that would carry half that number would answer every purpose. He realized that countries like Great Britain whose Dominions reach all over the world, in all the seas, had to have a larger number of cruisers than Germany which had no Dominions or other countries which had few. So far as he was concerned, Great Britain was prepared to agree to absolute elimination of submarines. It was a barbarous mode of warfare and could only be carried on by sinking merchant ships, women, children and non-combatants; that they ought to do away absolutely with poisonous gases and limit the number of air-planes, etc. The last Washington Conference⁸ had been a great success. Mr. Hughes had made a spectacular and a wonderful proposition which had been immediately accepted by the British Government. He thought that if another one were to be called it would be wise to quietly sound out the different governments in advance so that there would be no failure. Of course, I told him I had no knowledge whatever as to the President's or the Secretary's views on the subject of calling a conference; that the resolution of Congress was simply advisory but indicated

⁵ See telegram from the Ambassador in Great Britain, Feb. 14, 10 a.m., *infra*. The date of receipt by the Department of this memorandum is not indicated.

⁶ Sir Austen Chamberlain.

⁷ French Premier and Minister for Foreign Affairs.

⁸ Conference on the Limitation of Armament, Nov. 12, 1921-Feb. 6, 1922; see *Foreign Relations*, 1922, vol. 1, pp. 1 ff.

a public opinion. I think he rather expects such a conference and I am inclined to think he would welcome it and that he thinks it could succeed best in Washington.

500.A14/54 : Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

[Paraphrase]

LONDON, February 14, 1925—10 a.m.

[Received February 14—9:25 a.m.]

67. After we had signed the mandate treaties on the 10th,⁹ Chamberlain asked me to stay, and in the two-hour conversation which followed he expressed his views on various European subjects, among them the Geneva Protocol,¹⁰ security for France, evacuation of the Ruhr and the Rhineland, Russian situation, the Ambassadorship to Turkey, and land and naval armament. It is unnecessary to cable the details of this extended conversation.

You will understand that I did not express the views of my Government on these subjects. The one thing I have to mention is that Chamberlain thinks that any move at present by any government for land disarmament is premature and would be failure, but he does think further limitation of naval armament desirable; he believes that France and Japan would participate. Yesterday he informed me that the Cabinet approves the calling of a conference of this sort in the United States and that he intended to inform you of his views through Ambassador Howard in Washington.¹¹

KELLOGG

500.A14/54 : Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

WASHINGTON, February 14, 1925—2 p.m.

74. Your 67, February 14, 10 a.m. Please ascertain if possible what basis Chamberlain has for believing that France would join in conference for further limitation of naval armament with intention to effect limitation of auxiliary craft. Is there ground for believing that France has changed her position since Washington Conference and if not how is that position to be met in order to avoid recurrence of deadlock between France and Great Britain? It may be possible for you to obtain confidential information on this point before leaving.¹²

HUGHES

⁹ See vol. II, p. 199.

¹⁰ Protocol for the Pacific Settlement of International Disputes; text printed as Senate Document No. 180, 68th Cong., 2d sess.

¹¹ No communication on this subject from the British Ambassador found in Department files.

¹² Ambassador Kellogg returned to the United States and was appointed Secretary of State on Mar. 4, 1925.

500.A14/55 : Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

[Paraphrase]

LONDON, February 17, 1925—11 a.m.

[Received February 17—9:35 a.m.]

71. Department's No. 74, February 14, 2 p.m. I endeavored to learn from Chamberlain basis for his belief that France would participate in a conference for the further limitation of naval armament affecting auxiliary craft, but found that he has no definite statement from present French Government; he infers from general political situation in France and from a general conversation he had last December with Premier Herriot that while France would not take part in conference on land disarmament, the Government might participate in a naval conference. I shall explain Chamberlain's views in detail on my arrival.

KELLOGG

500.A12/38 : Telegram

The Chargé in Great Britain (Sterling) to the Secretary of State

LONDON, February 19, 1925—11 a.m.

[Received February 19—8:15 a.m.]

74. In answer to a question in the House of Commons yesterday as to whether any information could be given with regard to a new disarmament conference to be summoned by the President of the United States, Mr. Chamberlain replied, "The matter has been informally mentioned in conversations with the Ambassador of the United States and is under consideration." No editorial comments in the press as yet.

STERLING

500.A12/41 : Telegram

The Ambassador in Japan (Bancroft) to the Secretary of State

TOKYO, February 20, 1925—6 p.m.

[Received 10 p.m.]

34. My 33, February 20, 4 p.m.¹³ Have just seen United Press cablegram that President Coolidge has received consent of England, Japan and Italy and is waiting for consent of France before calling disarmament conference.

BANCROFT

¹³ Not printed.

500.A12/42a : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, February 21, 1925—1 p. m.

94. On February 19 I requested the French Ambassador to see me at the Department. I said that he had doubtless noticed in the public press considerable discussion growing out of Chamberlain's statement in the House of Commons, in answer to a question, that there had been conversations with the American Ambassador on the calling of a new arms conference by the United States. Chamberlain had declined to enter upon discussion of the subject, stating that the conversations were wholly informal.

I said that the press was making a great deal out of incidents that had very slight significance. I wished the French Government to know what had taken place as I would not care to have it supposed that negotiations were going on without suitable information to French Foreign Office. What had happened was that in a recent interview between Ambassador Kellogg and Chamberlain, preparatory to the former's departure from London, Chamberlain himself had brought up the subject of another conference at Washington, suggesting that an invitation extended by President Coolidge might have favorable reception on the part of the powers, and had indicated a favorable attitude on the part of the British Government. Chamberlain had recognized unlikelihood that anything could be done at such a conference in relation to land armaments but had thought that progress might be made with respect to further naval limitation. I said that on receiving advice of this intimation I had instructed our Ambassador to inquire of Chamberlain whether he had any definite basis for supposing that other Governments might favorably receive such an invitation. It then appeared that upon this point there was nothing definite.

I called attention to the fact that from time to time there had been recurrent conversations of an informal character between our representatives abroad and foreign offices as well as between ambassadors here and myself on possibility of another conference. The position of this Government remained what it had been, that is, it desired to go forward from the point which had been reached at the Washington Conference and to obtain a further agreement on limitation of auxiliary naval craft. I would not refer to the difficulties encountered at the Washington Conference. I should be greatly pleased to learn that there was a prospect for removal of these difficulties. This Government did not desire to call a conference, of course, unless there was a reasonable prospect of agreement. The French Government

could be assured that if the Government of the United States took up the matter on its own initiative, it would bring it to the attention of all the other Governments, including France. Present discussion in the press had grown simply out of this informal statement made by Chamberlain; and the United States was not advised as yet of any change in situation which would warrant calling of another conference. I added that by this I did not mean to say that I would not welcome a suggestion from the French Government that it would look favorably upon an invitation and was ready to proceed with an agreement for limitation of auxiliary craft. The Ambassador said that he was glad to have my statement, but made no further comment.

Foregoing is for your information and informal use, should you have occasion to discuss the subject with French officials.

[Here follows substance of telegrams No. 74, February 14, 2 p. m., to the Ambassador in Great Britain, and No. 71, February 17, 11 a. m., from the Ambassador in Great Britain, printed on pages 4 and 5, respectively.]

HUGHES

500.A12/41: Telegram

The Secretary of State to the Ambassador in Japan (Bancroft)

[Paraphrase]

WASHINGTON, February 21, 1925—2 p. m.

19. Reference your telegrams February 20. Day before yesterday the Japanese Chargé d'Affaires remarked that there had been a good deal appearing in the press in regard to the calling of another arms conference, and that naturally his Government was much interested in these reports.

I said that I was glad the opportunity had arisen to tell him just what had taken place, as the situation has been considerably magnified in the newspaper reports. A few days ago Mr. Austen Chamberlain, in the course of a conversation with Ambassador Kellogg, had mentioned the possibility of another arms conference and had indicated the willingness of the British Government to take part; that was all there was to it. It was recognized that a conference would probably have to be confined to proceeding with limitation of naval craft in view of the unlikelihood of doing anything in regard to land armament. Mr. Chamberlain suggested further that an invitation extended by the President would be received favorably by the other powers. The conversation between Mr. Chamberlain and the Ambassador was most informal. Mr. Kellogg telegraphed me the substance of it, and I then instructed him to inquire if Mr. Chamberlain had a definite basis for belief that invitation would be wel-

comed by the naval powers, and particularly whether any different attitude could now be expected on question of auxiliary craft which had arisen between France and Great Britain. From the conversation that followed it appeared that Mr. Chamberlain's suggestion had been general and that there was nothing very definite to go upon. A question on this matter had been asked in the House of Commons, to which Mr. Chamberlain had replied that there had simply been conversations.

I told the Chargé that the attitude of this Government remains unchanged, that it had always wished to go forward when an opportune time should have arisen with the proposals it had made at the Washington Conference in 1922, but that it had feared that difficulty which had then prevented an agreement in regard to auxiliary craft still remained. I said that I understood that the viewpoint of the Japanese Government is very much the same as our own and that it is ready to proceed in event that there is any appearance of reasonable expectation of an agreement. I added that I regretted only that these reports had made it appear that some special negotiation was going on with Great Britain when none was. There was nothing more than these conversations in which Mr. Chamberlain had brought up the matter, in addition to fact that for a year or so there had been such general and informal talks with other interested Governments as had taken place with Government of Japan on this matter.

Although the Chargé has doubtless reported this conversation, you may take occasion to assure yourself that situation is fully understood by Japanese Foreign Office. It is not necessary for me to assure you that I am aware of danger of appearing to work with other powers in disregard of Japan. This has neither been done nor intended. Press publicity has tended to give great definiteness to what is entirely nebulous at this time and has been the more embarrassing to me because of difficulty of making any effectual denial without running the danger of chilling public interest and sympathy for the further plans of naval limitation which it is still our wish to bring about.

HUGHES

500.A12/45: Telegram

The Ambassador in Japan (Bancroft) to the Secretary of State

[Paraphrase]

Tokyo, March 18, 1925—10 p. m.

[Received March 18—10:45 a.m.]

51. Two Tokyo newspapers today carry London despatch which says:

"Following the failure of the Geneva Protocol," the President's announcement of his intention to call another conference evidently follows course of action agreed upon by Chamberlain and Kellogg when they came to an understanding just before the latter left London".

Despatch refers to President's alleged decision to proceed with conference even if some powers refuse to take part, as being aimed at France in London's opinion.

The chief aide to the Minister of the Navy said today that Japan was persuaded that conversations had taken place between the United States and Great Britain before the first Washington Conference (1922) and in guarded reference to above report gave impression that those conversations were regarded by Japanese as very significant.

BANCROFT

500.A12/45 : Telegram

The Secretary of State to the Ambassador in Japan (Bancroft)

WASHINGTON, March 19, 1925—7 p.m.

31. Your telegram No. 51, March 18, 10 P.M. The Japanese Ambassador called today at my request and I read to him all but the last paragraph of the Department's telegram to you No. 19 of February 21, 2 P.M., and informed him more in detail regarding my conversation with Chamberlain, mentioning particularly that the subject of a disarmament conference was introduced by Chamberlain. I informed the Ambassador that I had not mentioned the subject to Chamberlain or the British Government; that we did not sound out the British Government or come to any understanding about it; that the conversation was informal; that if the President concluded to call a naval conference in Washington, we should of course communicate with and inquire of the Japanese Government exactly in the same way we should with the other Governments; and that we had no intention of calling such a conference without doing so. I further assured him of our desire, as far as possible, to act in harmony and cooperation with the Japanese Government both in this matter and in the Chinese situation.

The Ambassador thanked me very much and said that our telegram to you was probably sent after he left Tokyo. He also said that his Government, in a general way, thought as we did on the subject,

¹⁴ On March 12 the British Secretary of State for Foreign Affairs stated to the Council of the League of Nations that his Government could not accept the protocol or recommend its acceptance to the other Governments of the Empire. See Great Britain, Cmd. 2368, Miscellaneous No. 5 (1925).

that, of course, he believed that if such a conference were to be called, the Japanese Government and all the Governments should be communicated with and sounded out on the subject in advance. He expressed his great appreciation that it was our intention to work in harmony with him in Chinese matters as far as possible and said he wished to come in some other day and discuss with me some other matters, particularly some radio matters in China. He said he had seen the newspaper reports as to the President's determination to call a conference but he did not think there was anything particularly new about it. I told him I had not yet discussed the question with the President for want of time.

KELLOGG

500.A12/531

Memorandum of a Conversation Between the Secretary of State and the French Ambassador (Daeschner), March 26, 1925

The French Ambassador called and said he was not requested to come by his Government but he came privately on his own account. He, however, read to me a message, apparently from his Government, which stated in substance that France considered security, disarmament and arbitration as inseparable, that in spite of England's attitude on the Geneva Protocol, they did not in France consider it dead but that it would come up for discussion at the next meeting of the Council of the League of Nations in September; that in view of the situation, France did not consider disarmament now practical and even if the Washington Government considered calling a naval disarmament [conference], France felt as though, in view of her colonies, in the event of a war with Germany, further agreement for naval disarmament was not possible. I asked him if this was intended as a statement that France would not attend such a conference. He said no, he was not authorized to make any such statement and the statement he had read me did not go that far. He was reading it to me for my private information, not of course private from the President.

I informed him that there was nothing new on the subject, that of course if the President concluded to call a conference, he would first communicate with the Governments interested but he evidently came to see me with a view of discouraging any such move.

I asked him if he thought they were going to make a settlement of the security question. He said he did not know. He thought there would be no difficulty about getting proper guarantees as to the Western Boundary but the difficulty was the Eastern Boundary—the Danzig Corridor and Silesia, especially the Danzig Corridor,

which separated East Prussia from West Prussia and which also gave Poland a port.

500.A12/67a : Telegram

*The Secretary of State to the Ambassador in France (Herrick)*¹⁵

[Paraphrase]

WASHINGTON, October 22, 1925—4 p.m.

385. Please summarize briefly by cable press comment in the country to which you are accredited on President's remarks to press¹⁶ regarding possibility of disarmament conference and on possibility of holding it in Washington; also any personal information you may have without making inquiry of officials of the Government. Repeat as circular instruction to Embassies in Great Britain, Germany, and Italy.

KELLOGG

500.A12/68 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

[Extract—Paraphrase]

PARIS, October 23, 1925—6 p.m.

[Received 11:55 p.m.]

510. Your 335 [385], October 22. Press comment is uniformly opposed to any conference on disarmament under the President's auspices, whether held at Washington or at The Hague.

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WHITEHOUSE

500.A12/69 : Telegram

The Chargé in Italy (Robbins) to the Secretary of State

ROME, October 24, 1925—11 a.m.

[Received 1:35 p.m.]

160. Your 385, Oct. 22, 4 p.m. to Paris. No comment whatever in local press.

ROBBINS

¹⁵ See last sentence for instructions to repeat to Great Britain, Germany, and Italy. Similar instruction, except for last sentence, sent to Embassy in Japan, Oct. 22, 4 p. m. (file No. 500.A12/67b).

¹⁶ Appearing in the newspapers of October 21.

500.A12/71: Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

[Paraphrase]

LONDON, October 24, 1925—1 p.m.

[Received 5:18 p.m.¹⁷]

332. Department's circular telegram, October 22, 4 p.m.¹⁸ I have not felt it advisable to discuss disarmament with other diplomatic representatives, and what information I have comes to me either indirectly or in conversations with members of the press. I feel sure, nevertheless, that a distinct atmosphere of hostility exists toward any attempt to bring a conference on land armament to Washington. The feeling is that at Locarno¹⁹ the European powers reached a friendly understanding without our help and that now they are in a position to regulate armaments among themselves without American initiative, especially as, not being a member of the League of Nations, we have no direct interest or concern in European affairs. I fear, therefore, that any suggestion to bring a conference of nature intimated to Washington would meet with refusal. On other hand, a proposition to reduce naval armaments, in which it is conceded that we have a direct interest, would not improbably receive affirmative answer. I must emphasize, however, fact that Locarno settlement has changed radically the mental attitude of the powers concerned; they now feel to large extent independent of America; and in addition, by conferring great powers on the League of Nations, they are conscious that they have brought into existence new and very important political machine which belongs to them.

Two days ago the Swedish Minister here came to see me, and after discussing matters about which Mr. Sterling will report to you, he asked if America realized how strong the League of Nations had become and if there were any likelihood that in view of the changed situation we would now become a member. I told him that I knew of no reason to suppose that our position would change. He then asked if President Coolidge was thinking of calling a conference in Washington on land disarmament. I said that I was without information. He said that he hoped the President would not, as such a request would certainly be refused, and added that he knew whereof he spoke as he had discussed matter with other diplomatic representatives and had just come from a talk with Chamberlain. A naval conference would, he said, receive a favorable answer. Doubtless you remember the

¹⁷ Telegram in two sections.

¹⁸ See telegram No. 385 to the Ambassador in France, p. 11.

¹⁹ Locarno Conference, Oct. 5-16, 1925.

Minister; he is usually well informed. Certainly he left me with the impression that the whole matter of land disarmament had already been discussed by Briand and Chamberlain, and that any attempt at this time on our part would be resented by them. All Chamberlain has ever said to me is that he told Luther²⁰ that Germany must not expect a disarmament of the other powers so complete as had been forced on her.

As you are aware, we are not popular in Europe just now. Our refusal to join the League of Nations and our insistence upon debt repayments have left us without friends. The conclusion is inescapable for me that an open refusal to allow us to take lead in European disarmament would be popular over here; but I also think that an entirely new method of approach in which we could have something to offer would change present situation.

Daily press of this week beginning the 19th has carried various articles quoting the White House spokesman as having pointed out desirability of holding a disarmament conference upon signing of the Locarno Agreement and indicating that President upon any favorable intimation from Europe might consider issuing invitations to one. There have been no direct editorial articles but the general press comment has been that with the Locarno Agreement initiative has passed from Washington to Geneva, and points out that the Locarno Agreement was reached without any American participation. An alleged statement by Chamberlain to the French press is generally referred to, that Locarno had brought the question of universal disarmament nearer realization than it had ever been before; that Mr. Coolidge was interesting himself in this problem but that it ought to be widely known that at present time the League of Nations was busy preparing for summoning of an international disarmament conference.

[The remainder of the telegram quotes excerpts from British newspaper statements.]

HOUGHTON

500.A12/71a : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

[Paraphrase]

WASHINGTON, October 24, 1925—1 p.m.

322. Probably you have seen press statements on what President said on subject of a disarmament conference. I should be glad if on your own responsibility you could ascertain from the proper British authorities in such a way that it will not be considered an inquiry

²⁰ Dr. Hans Luther, Chancellor of the German Reich.

from this Government what the attitude of that Government is toward the President's calling of such a conference and what the opinion of British officials is in regard to its reception by other European countries on subjects of both land and naval armament. I am not yet prepared to make inquiry of European countries and for that reason wish this to be simply an informal talk by you on your own responsibility.²¹

KELLOGG

500.A12/70 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

[Paraphrase]

Tokyo, October 24, 1925—3 p. m.

[Received October 24—11:30 a. m.]

176. Reference to Department's telegram inquiring newspaper comment on President's press statement.²² His remarks were not widely carried, none of the vernacular papers featured the news item prominently; only a few of the metropolitan papers printed condensations in their news columns; an account in English appeared in *Japan Advertiser*. There has been no editorial comment. There has been some discussion of effect that could be expected from the Locarno Agreements.

I am informed that Japan would prefer to see settlement as far as possible of all the outstanding obligations arising out of Washington 1922 Conference before considering new commitments; that for the present moment the country is content with its armament situation and would not welcome further conference on armament until Chinese situation shows some sign of clarifying and until relations with Russia are placed upon more secure foundation than at present exists.

NEVILLE

500.A12/73 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

[Paraphrase]

BERLIN, October 26, 1925—5 p. m.

[Received 5:34 p. m.]

183. Department's circular telegram, October 22, 4 p. m.²² President's remarks have received exceedingly little press comment here; only article of any interest is in *Vossische Zeitung* of October 23.

²¹ On Oct. 26, noon, the Ambassador telegraphed that the Department's inquiry had been fully answered by his telegram No. 332, *supra*. (File No. 500. A 12/72.)

²² See footnote 15, p. 11.

I believe, however, that German opinion in general for obvious reasons would welcome call from President Coolidge for disarmament conference at Washington.

SCHURMAN

500.A12/77 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

[Paraphrase]

LONDON, October 29, 1925—(?) p. m.

[Received 8:53 p. m.]

337. Department's telegram No. 322, October 24. The probable calling of a European conference for limitation of armaments is occasioning me real concern. Should a conference of this sort eventuate, nothing can prevent at least a part of European press from voicing distinct satisfaction and from seeing in our exclusion a definite and intended rebuff to would-be American leadership. This view would be copied into the American press and, coupled with the fact that the League of Nations is now a formidable political machine, would be used to demonstrate that our policy, despite all our sacrifices, has resulted merely in eliminating us from the general comity of nations and has left us isolated against a united Europe and without friends in Asia.

In these circumstances may I suggest for consideration that it might clear the situation if President Coolidge were to point out at early opportunity that any so-called American interference in European affairs has come only when the European powers themselves were unable to agree and had asked our help, as in the Dawes Plan. When these powers can agree, especially in efforts to effect limitation of armaments, neither reason nor excuse for our participation exists. Our approval of a conference of that sort may be taken as matter of course. The administration, rather than its enemies, it seems to me, should define its position, but unless such a definition as suggested be made early any later statement would avail little. Attitude on our part such as I suggest would unquestionably have salutary effect on this side the water and would serve to bring to minds of the powers concerned that they would be affected adversely and possibly disastrously by any real withdrawal on our part.

HOUGHTON

500.A12/77 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

[Paraphrase]

WASHINGTON, November 19, 1925—10 a.m.

338. Your No. 337, October 29. I have talked over the matter with the President and have given him a memorandum.²³ He will take up the subject in his message to Congress on December 9 [8].²⁴ It will receive much more publicity in that way than it would from a newspaper interview. If you think that there is any possibility that European countries will take steps to call a conference before his message, I should be glad to be advised.

KELLOGG

**DISINCLINATION OF THE UNITED STATES TO BE ASSOCIATED IN
EUROPEAN SECURITY PACTS: (1) GENEVA PROTOCOL; (2) LOCARNO
AGREEMENT**

511.3 B 1/286½

*Memorandum by the Secretary of State of a Conversation With the
British Ambassador (Howard), January 5, 1925*

*Geneva Protocol.*²⁵ The Ambassador said that he had received a private letter from Mr. Austen Chamberlain²⁶ requesting him to take up with the Secretary the question of the Geneva Protocol. Mr. Chamberlain desired to know the views of this Government. It would seem that the putting into effect of the Protocol without modifications might leave the way open for the development of situations which would be embarrassing with respect to the relations between Great Britain and the United States. It was a cardinal point in British policy to maintain friendly relations with the United States and to cooperate with this Government wherever possible, and there might be interference with this policy if contingencies should arise in which through the operation of the Protocol the British Government was brought into opposition to the interests of the United States. On the other hand, it seemed to the British Government that it would not be well to throw out the Protocol entirely, for if this were done there would most probably be a continuance of competitive armament in Europe which the countries concerned could not afford. The only alternative to such a competition in armament with all its possible consequences would seem

²³ Not printed.²⁴ See the President's message to Congress, December 8, p. vii.²⁵ Protocol for the Pacific Settlement of International Disputes; text printed as S. Doc. 180, 68th Cong., 2d sess.²⁶ British Secretary of State for Foreign Affairs.

to be the adoption in some form of such an arrangement as the Geneva Protocol proposed. The British Government were seeking for modifications which might suit the purpose and would be very glad to know the position of the United States.

The Secretary said he should hardly care to make any answer for this Government to such a broad inquiry, involving important questions of future policies, without bringing the matter to the attention of the President, and this he would do at the first opportunity. He did not mind saying, however, as an informal expression of his personal views, that there were two aspects at least of the Geneva Protocol which might give concern to this Government. The Secretary said that if the Protocol were taken as having practical value and of actually portending what it set forth, there would appear to be a proposal of a concert against the United States, when the Powers joining in the Protocol considered that the United States had committed some act of aggression, although the United States might believe itself to be entirely justified in its action, and in fact be acting in accordance with its traditional policies. The Secretary said that he did not believe that such a concert would actually become effective but he supposed that the Protocol must be taken as it is written and in this view the United States would be compelled to view it with disfavor. The Secretary said there was another class of cases where the action of the United States itself might not be involved but that of some other country with which the United States had trade relations, and the action of the Powers who had joined in the Protocol might turn out to be inimical to the interests of the United States in such relations with the country in question.

The Ambassador said that he had not supposed that the first situation would actually arise and he really had in mind the second case that the Secretary had put. In other words, they might be called upon to blockade some country and come into antagonism to the interests of the United States in consequence. The Secretary said that there was one thing he believed could be depended upon, and that was that this Government from its very beginning had been insistent upon the rights of neutrals and would continue to maintain them. The Secretary did not believe any Administration, short of a treaty concluded and ratified, could commit the country against assertion of its neutral rights in case there should be occasion to demand their recognition. The Ambassador said that he believed that that was the situation and that that was the point which his Government had in view. The Secretary said that while the effect of the Protocol upon the interests of the United States in the con-

tingencies suggested seemed to be quite obvious, the Government of the United States did not desire to be put in the position of taking action against the adoption of the Protocol. He had rather expected that situations similar to those which might arise in the view of the United States, would be in contemplation of other Governments and especially of the British Government, and he had not believed that the Protocol would become effective according to its present terms; that it was desired by this Government that if other Governments did not approve the Protocol, they should deal with the matter from the standpoint of their own interests and not put the responsibility upon the United States.

The Ambassador said that there had been nothing on the particular point in Mr. Chamberlain's letter, but it had occurred to him (the Ambassador) that possibly the result might be reached by a reservation on the part of the British Government; that they could reserve the right in any contingency to which the sanctions might apply to consult with any Power that was not a member of the League of Nations and make such arrangements as might be desirable in the light of such consultation. The Ambassador said that he had not worked out the phraseology but the idea occurred to him and it seemed to him that it might be a satisfactory solution.

The Secretary said that he could well understand the reasons which might lead the British Government to make such a reservation but that he thought it would be inadvisable to have anything said on the other side to the effect that an arrangement had been made in relation to the ratification of the Protocol which was satisfactory to the United States. The Secretary said that if any such statement or suggestion was made there would at once be inquiry here as to what understanding we had and why we had it and what right we had to have it, et cetera; that it would be a most unpleasant situation. The Secretary must emphasize the point, therefore, that whatever action the British Government took it must take on its own responsibility and while, as it seemed to the Secretary, they could appropriately envisage the possible contingencies of conflict with the interests of the United States and develop their course accordingly, they should not make any suggestion that the course they did take was taken pursuant to some understanding with the United States.

The Secretary said this was all he cared to say at present and he would talk over the matter with the President.

The Ambassador said that he was leaving the city and would not write to Mr. Chamberlain at once and might see the Secretary again on his return on Thursday.²⁷

²⁷ I. e., January 8.

511.3 B 1/288½

*Memorandum by the Secretary of State of a Conversation With the
British Ambassador (Howard), January 8, 1925*

[Extract]

Geneva Protocol. The Ambassador asked whether the Secretary had had an opportunity to take up with the President the subject discussed at the last interview (January 5/25). The Secretary said that he had done so and that the President agreed with the views the Secretary had expressed.

The Secretary said that he felt it necessary to emphasize the point that this Government desired that the British Government should act entirely on its own responsibility, so far as this Government is concerned, in dealing with the Geneva Protocol. It was particularly necessary that nothing should be said in the House of Commons or elsewhere that there was any agreement or understanding with the United States. The Secretary said that if, for example, it should be said in answer to a question in the House of Commons that any action or reservation of the British Government was satisfactory to the United States Government, it would cause great difficulty here. It would at once be asked what arrangement had been made and why the President, through the Secretary, should have entered into any understanding upon such a subject.

The Ambassador entirely agreed and said that of course there was no agreement or understanding with the United States Government in the matter. He appreciated the importance of avoiding any misapprehension on this score. The Ambassador again referred to the difficulties that might arise in applying the sanctions, especially the economic sanctions, with respect to the relations between Great Britain and the United States, and the desire of Great Britain to avoid any such embarrassment. He repeated that it was the cardinal policy of Great Britain to act in cooperation with the United States. The Secretary said that it was of course easy to foresee possible contingencies in which the attempt to enforce such economic sanctions would run counter to the interests of the United States, either when the United States was taking action which it thought justified in the circumstances, or was dealing with a third Power that was the subject of such sanctions and the rights of the United States as a neutral would be interfered with. The Ambassador referred to the Monroe Doctrine and action that might be taken under the Monroe Doctrine if there were difficulties between two of the Latin American Republics and one appealed to the Council of the League and sanctions were applied. The Secretary said that this Government, not being a signatory of the Protocol or represented at Geneva, felt that it should not be called up to take the responsibility of opposing the Protocol.

But the particular difficulties to which the Ambassador referred had their analogy in other difficulties that might arise elsewhere and the Secretary supposed that the British Government would be alive to all the possibilities and that the action which the Ambassador had suggested as possible, in making reservations, would be taken in view of the British Government's own interests.

The Ambassador said that he felt that the frankest way in such emergencies was the best way, and therefore he was disposed to think that instead of making a reservation that the British Government in any contingency would be at liberty to consult with a Government not a member of the League, they might better say that they desired to retain the privilege of consulting with the United States and making its [*their*] arrangements in view of the interests of the United States. The Ambassador felt that it would be well for the British Government to say frankly to its associates in the League that there could be no hope of applying the sanctions successfully in opposition to the views of the United States as they might be entertained by its people when a contingency arose.

The Secretary reiterated the importance of the United States Government remaining entirely separate from the discussion.²⁹

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740.0011 Mutual Guarantee (Locarno)/25

*Memorandum by the Secretary of State of a Conversation With the
German Ambassador (Maltzan), March 16, 1925*

The German Ambassador called to inform me of the substance of a proposition which had been made by Germany to France and England for a joint security pact to secure France.³⁰ He did not have the complete copy but had some memoranda showing the general nature of the pact and said he wished that the American Government should be informed. It appears that in one of these propositions made in 1922, it was proposed that France, England, Italy, and Germany should guarantee France's security to the Government of the United States.³¹ I told him I could not see why this should be made to the United States as we were not authorized to join in any such guarantee. He said he understood that perfectly. He also said that the guarantee which they now propose had been delivered to England by the Ger-

²⁹ The remainder of the memorandum deals with other matters.

³⁰ The German proposal was transmitted to the French Government on February 9; see Great Britain, Cmd. 2435, Miscellaneous No. 7 (1925): *Papers Respecting the Proposals for a Pact of Security Made by the German Government on February 9, 1925*.

³¹ See *Foreign Relations*, 1922, vol. II, pp. 203 ff.

man Ambassador in London who had given a copy of it to the American Chargé d'Affaires at the London Embassy last Friday and it would undoubtedly be sent to us. I made no comment on the nature of the guarantees other than expressed above. He then said that I probably remembered that a good deal had been said in the newspapers about Germany joining the League of Nations, especially the invitation received by Germany last September, that this invitation had been renewed or at least conversations had taken place about Germany's joining. He said that Germany insisted on assurance that she would have a member on the Council, that she objected to Article XVI and some other objections. He said he wished to inform me that the matter was under consideration. He was not, of course, asking the approval of the American Government but was informing me so that if we had any objections or suggestions, we could state them to him. I told him, speaking for myself and not for the President, that it was a matter entirely for Germany to decide, that we are not members of the League and, therefore, not interested, and that the German Government should exercise its own judgment in the matter and that we had no suggestion to make one way or the other about it. He talked as though this joining might be a part of the plan for the general guarantee of security to France and I told him, of course, that as we could not join in any such guarantee we ought not to express any opinion about it.

740.0011 Mutual Guarantee (Locarno) /27

The Chargé in Great Britain (Sterling) to the Secretary of State

LONDON, March 16, 1925.

[Received March 25 (?).]

MY DEAR MR. SECRETARY: In connection with my telegram No. 98, March 14, 1 p.m.,³² I beg to enclose a copy, in translation, of the memorandum of January 20, 1925, which the German Government handed to the governments of Great Britain, France, Italy and Belgium on the subject of a security pact.³³ I also enclose a copy of a letter which Mr. Dufour, Counselor of the German Embassy, handed to me today³² commenting upon the memorandum in question.

The manner in which I obtained the memorandum was as follows. Recently, having occasion to speak upon other subjects with Dufour, I asked him if, as a matter of information, he could properly give me the text of the proposals put forward by the German Government for a security pact, concerning which there had been so much publicity.

³² Not printed.

³³ The text is similar to, not identical with, the text of the German note presented to the French Government on February 9.

I told him that I would like the text to forward to you and that it would be given the most confidential treatment, making it clear to him that I was under no instructions from my Government and that my request should not be interpreted as a possibility of American intervention in European political affairs in any way. In a day or two he brought me the memorandum; he thoroughly understands our position.

I gather from him that the British Government have replied informally to the German Government to the effect that they believed the memorandum contained a basis deserving of careful consideration, and that the French have replied in a more guarded manner but have not rejected the idea. Apparently there has been great divergence of opinion in the British Cabinet as to what form the question of security should take and even as yet there is no crystallized policy determined upon. It would appear fairly certain, however, that the British will attempt to induce France to include Germany in any pact, on the understanding, of course, that Germany will first enter on an equal footing into the League of Nations. Conversations are now taking place on this basis between Herriot²⁴ and Chamberlain, but the situation is in a very fluid state and it will probably be several months before anything definite evolves. Italy can be counted upon to follow the lead of Great Britain.

There has been much talk in the press here of a Disarmament Conference in Washington. To me it seems clear that before France will attend such a conference the question of her security, as she views it, must be definitely settled.

With best wishes [etc.]

F. A. STERLING

[Enclosure]

German Memorandum on the Subject of a Security Pact

BERLIN, 20 January, 1925.

The Disarmament and Evacuation questions which are now being discussed are often regarded in France from the point of view of security against possible German intentions of aggression. Therefore, they would possibly more easily find a solution, if an agreement of a general kind could be brought about with the intention of guaranteeing peace between Germany and France. Germany is entirely ready to accept this point of view. She wishes to see all problems which may accrue between her and France to be treated in no other way than by peaceful understanding and is therefore, for her part, also interested in the formation of a special treaty-basis for such a peaceful understanding.

²⁴ French Premier and Minister for Foreign Affairs.

When considering all the different methods which might at present be brought into being for the formation of a pact of security, one might start from an idea similar to the one which in December 1922 formed the basis of the suggestion made by the then German Chancellor Cuno.⁸⁵ Germany could, for instance, declare herself in agreement with a pact, whereby the Powers interested on [*in?*] the Rhine, above all England, France, Italy and Germany, could solemnly pledge themselves to the Government of the United States of America as Trustees, to carry on no war with one another for a still to be defined period of time. A far reaching treaty of arbitration could be connected with such a pact between Germany and France in a similar way, as has already been formed during the last few years between several European Powers. Germany is ready to enter into such treaties of arbitration with all other States as well, in order to guarantee a peaceful settlement of judicial and political conflicts.

Besides this a pact would also be acceptable to Germany which expressly guarantees the territorial *status quo* on the Rhine. The tenor of such a pact could eventually be that the States which are interested in the Rhine should reciprocally agree fully to respect the inviolability of the territorial *status quo* on the Rhine, that they furthermore, both jointly and separately, guarantee the execution of this obligation and, finally, that they will consider every action which tends to counteract the obligation as a matter of joint or individual concern. In the same sense these Treaty States could guarantee in this pact the execution of the obligation regarding the demilitarisation of the Rhineland which Germany has undertaken in Articles 42 and 43 of the Treaty of Versailles. Included in this pact could also be arbitral conventions of the kind mentioned above between Germany and all other States who would be ready to take part in such conventions.

It will be possible to add several other possibilities of solution to the above-named examples. And the ideas which form the basis of these examples could in one way or another be also combined. But the examples might possibly suffice to show that, if all States concerned have the wish for guarantees to bring about a peaceful development, it would not be difficult to find a definite basis by treaty means.

760c.6215/414

The Secretary of State to the Minister in Poland (Pearson)

No. 123

WASHINGTON, June 5, 1925.

SIR: There is enclosed herewith for your confidential information a copy of a Memorandum left by the Polish Minister on May 28,

⁸⁵ *Foreign Relations*, 1922, vol. II, p. 203.

1925. Upon being apprised of the contents of the Memorandum I drew the Minister's attention to the fact that the United States could not in any way associate itself with a Security Pact ³⁶ and must maintain an entirely neutral position with regard to any boundary disputes arising in connection therewith. The Polish Minister stated that he understood the situation perfectly.

I am [etc.]

FRANK B. KELLOGG

[Enclosure]

The Polish Legation to the Department of State

MEMORANDUM

For some time past there has been a great deal of discussion in connection with the so-called security pacts of the alleged injustice of those clauses of the Treaty of Versailles which gave to Poland the Province of Pomerania, commonly known as the "Polish Corridor", and of the allotment of a part of Upper Silesia to Poland on the basis of the Treaty of Versailles and the subsequent plebiscite.

Pomerania is the district extending from Poznan to the Baltic Sea. It constitutes Poland's only free access to the sea. The population is and always has been predominantly Polish. Before the war, according to the official German census, Poles constituted 80.4% of the population and Germans 19.6%. In the elections to the Polish Diet held in Pomerania November 5, 1922, the Polish lists embraced 85% of the population and the German lists 15%. Since 1922 a considerable number of Germans have left Pomerania and an additional number will have to leave before 1926, in accordance with the terms of the Convention of Vienna signed August 30, 1924, regulating the question of option of nationality. A fair estimate of the present numerical relation of Poles and Germans in Pomerania would be, Poles, 90%, Germans 10%.

On fifteen occasions between 1875 and 1918 the people of Pomerania cast their ballots for the election of a member to represent that district in the German Reichstag. These elections invariably resulted in the choice of a Pole to represent Pomerania.

The Transit Convention of Paris, signed by Poland and Germany April 25, 1921, provides for free and unrestricted traffic between the German Province of East Prussia lying to the east of Pomerania and the main body of Germany lying to the west. For the settlement of complaints and grievances arising in connection with this transit traffic the contracting parties established a Mixed Transit

³⁶ For statement on the work of the Locarno Conference, see the President's message to Congress, December 8, p. vii.

Tribunal under neutral presidency with final jurisdiction. The first case which this Transit Tribunal was called upon to hear in the course of its three years of existence was a German protest in connection with the railway disaster occurring at Starogard on April 30, 1925. In this case the Tribunal exonerated the Polish Government of any responsibility for the disaster, the evidence pointing to a criminal attempt by parties unknown. Pomerania constitutes no barrier to communication between one part of Germany and another. Persons and goods are moved through the territory in question without being subject to any formality whatever. Neither passports nor visas are required, and freight and baggage are liable to no tariff nor inspection. This is true not only on the railroads but on the waterways.

The first draft of the Treaty of Versailles provided that the Polish-inhabited districts of Upper Silesia should be given to Poland. Because of Germany's protest and in deference to the opinion of the British representative who reversed his position the final Treaty provided for the taking of a plebiscite as a guide in the delimitation of the boundary line. Article 88 of the Treaty of Versailles provided as follows:

"In . . .³⁷ Upper Silesia . . .³⁷ the inhabitants will be called upon to indicate by a vote whether they wish to be attached to Germany or to Poland: . . .³⁷ Germany hereby renounces in favor of Poland all rights and title over the portion of Upper Silesia lying beyond the frontier line fixed by the Principal Allied and Associated Powers as a result of the plebiscite.

"Annex Paragraph 4. . .³⁷ The result of the vote will be determined by communes according to the majority of votes in each commune.

"Paragraph 5. On the conclusion of the voting, the number of votes cast in each commune will be communicated by the Commission to the Principal Allied and Associated Powers, with a full report as to the taking of the vote and a recommendation as to the line which ought to be adopted as the frontier of Germany in Upper Silesia. In this recommendation regard will be paid to the wishes of the inhabitants as shown by the vote and to the geographical and economic conditions of the locality."

The plebiscite was held under Interallied supervision on March 20, 1921. As was expected, in some districts heavy majorities were cast for Poland, in other districts heavy majorities for Germany. Faced with the problem of delimiting the frontier so as to conform as nearly as possible with the spirit and letter of the Treaty, the Supreme Council invoked the good offices of the Council of the League of Nations. The Council appointed a Polish-German Commission under the presidency of Felix Calonder, former President of the

³⁷ Omission indicated in the original memorandum.

Swiss Republic, which actually delimited the boundary line in conformity with the wishes of the inhabitants as expressed in the vote by communes and with due regard for geographical and economic considerations. The work of this Commission was approved by the Council of the League and accepted by the Supreme Council. On May 15, 1922, Poland and Germany signed a Treaty at Geneva embodying the terms of the settlement including the boundary line as approved by the Council of the League and the Supreme Council. No boundary line could have been drawn which would have placed all of the Poles within Poland and all of the Germans within Germany. Sizeable minorities of Poles and Germans respectively were by the force of necessity excluded from the country of their choice.

Immediately after the incorporation within Poland of the part of Upper Silesia allotted by the Treaty, a very large measure of autonomy was granted it by the Polish Diet. A special Upper Silesian Diet was elected by universal suffrage. In the Diet so elected there are 48 members of which number 35 are Poles and 13 are Germans.

These facts which set forth the legal and moral rights of Poland in respect to Pomerania and Upper Silesia will serve to explain why it is unthinkable that any Polish Government could permit itself to enter into a discussion which would in whatever form tend to question Poland's rights to these parts of her territory. In so refusing to enter into any international discussion of its rights to these territories the Polish Government has ample proof of the unanimous support of its people.

WASHINGTON, May 28, 1925.

**PARTICIPATION BY THE UNITED STATES IN THE CONFERENCE FOR
THE SUPERVISION OF THE INTERNATIONAL TRAFFIC IN ARMS, AT
GENEVA, MAY 4-JUNE 17, 1925 ***

500.A14/43

*The Secretary General of the League of Nations (Drummond) to
the Secretary of State*

C. L. 192. 1924. IX

GENEVA, January 8, 1925.

[Received January 27.]

SIR: In pursuance of my letter of December 9th, 1924,²⁰ I have the honour to inform you that, at its meeting held in Rome on Decem-

* For previous correspondence concerning control of traffic in arms, see *Foreign Relations*, 1924, vol. 1, pp. 17 ff. For proceedings of the Conference, see League of Nations, *Proceedings of the Conference for the Supervision of the International Trade in Arms and Ammunition and in Implements of War* (A. 13. 1925. IX).

²⁰ Not printed.

ber 9th, 1924, the Council of the League of Nations decided that the International Conference to examine the draft Convention for the control of the international traffic in arms, munitions and implements of war, prepared by the Temporary Mixed Commission for the reduction of armaments,⁴⁰ and to conclude a Convention on this matter, will meet at the Secretariat of the League of Nations in Geneva on Monday, May 4th, 1925 at 4 p. m.

The Governments of the following countries have already signified their willingness to be present at this Conference:

Austria
Belgium
Brazil
Bulgaria
China
Czechoslovakia
Denmark
Esthonia
Finland
France
Germany
Great Britain
Greece
Hungary

India
Italy
Japan*
Kingdom of the Serbs, Croats
& Slovenes
Latvia
Netherlands
Persia
Poland
Spain
Sweden
Switzerland
United States of America
Uruguay.

I have [etc.]

[Signature illegible]
[For the] Secretary-General

500.A14/167b

*The Secretary of State to the American Delegation*⁴¹

No. 1

WASHINGTON, April 16, 1925.

SIRS: The President has instructed me to inform you of his desire that you should represent this Government at the forthcoming international conference to be held at Geneva on May 4, 1925, to consider

⁴⁰ For draft convention, see *Foreign Relations*, 1924, vol. I, p. 56; also League of Nations, *Report of the Temporary Mixed Commission for the Reduction of Armaments* (A. 16. 1924. IX, annex IV).

* The participation of Japan is conditional upon the representation at the Conference of the States mentioned in Article 32 of the draft Convention. These States are Belgium, United States of America, France, Great Britain, Italy, Japan and Russia. [Footnote in the original.]

⁴¹ Theodore E. Burton, chairman of the delegation, member of the Committee on Foreign Affairs, House of Representatives; Hugh S. Gibson, vice chairman of the delegation, Minister to Switzerland; Rear Admiral Andrew T. Long, Navy Department; Allen W. Dulles, Chief of the Division of Near Eastern Affairs, Department of State; Brig. Gen. C. L'H. Ruggles, Assistant Chief of Ordnance, War Department.

the conclusion of a convention with regard to the international trade in arms, munitions and implements of war. You will be assisted by

Mr. Charles E. Herring,
Mr. Alan F. Winslow,
Major George V. Strong,
Commander Herbert F. Leary,

as technical advisers and secretarial staff.⁴²

You are already familiar with the subject matter to be dealt with at the Conference and with the views of this Government as set forth in the instruction of the Acting Secretary of State of June 17, 1924.⁴³ For your further information and guidance the Department has prepared and encloses herewith a confidential print which includes correspondence and documentary material for general reference purposes with respect to the question of arms traffic.⁴⁴ You will note in this correspondence the text of the communications of the Legation at Berne under instructions from the Department of August 29 [28th], 1924 and December 7 [6th], 1924, indicating this Government's willingness to be represented at the proposed conference. The confidential print also indicates the position this Government has taken with respect to the unratified Convention of St. Germain⁴⁵ and also the views expressed at the meetings which were held in 1924 at Geneva and Paris to consider in a preliminary way the international trade in arms, munitions and implements of war.

To supplement the information contained in this confidential print and for your further guidance, the Department, in the following pages, indicates its attitude toward the draft convention which is to be considered at the Conference, pointing out changes which are considered necessary or desirable before any convention is submitted to the Senate for approval or to Congress for legislation.

GENERAL CONSIDERATIONS

This Government is prepared to give careful consideration to any constructive proposals for the proper regulation of the international trade in arms with a view not only to securing adequate publicity with respect to such trade but also for the purpose of reducing to a minimum the traffic in arms which is calculated to foment disorder, encourage militarism or render more difficult the realization of this

⁴² Charles E. Herring, commercial attaché at Berlin; Alan F. Winslow, secretary of legation at Berne; Maj. George V. Strong, General Staff, War Department; Comdr. Herbert F. Leary, assistant naval attaché at London. Maj. Earl J. Atkinson, War Department, was also later attached to the delegation as technical adviser.

⁴³ *Foreign Relations*, 1924, vol. i, p. 40.

⁴⁴ Not printed; for correspondence on the subject referred to in this paragraph, see *Foreign Relations*, 1924, vol. i, pp. 17 ff.

⁴⁵ For text of convention, see *ibid.*, 1920, vol. i, p. 180.

Government's desire that further progress should be made toward an era of continuing peace.

In this connection it may appropriately be pointed out that the United States, while declining to ratify the Convention of Saint Germain has already complied with the spirit of that convention in the reductions which have been effected in its war times munitions industry and the consequent reduction to relatively small proportions of the American trade in arms and ammunition.

Further, it should be noted that of the High Contracting Powers specifically mentioned in Article 32 of the draft convention, the United States, in contrast with other Powers, is the only nation that does not maintain large Government arsenals for the supply of its own war time need. Consequently, in the event of any national emergency this Government will be dependent for its arms and ammunition almost exclusively upon the relatively meager private industry and manufacture of war material. It is therefore clear that this Government could not properly acquiesce in any measure which would be directed against private munitions factories while leaving government-owned or controlled factories in other countries free to continue their trade or production.

Further, it is clearly to be borne in mind that, with respect to the United States, the further control of the traffic in arms could only be made effective by Congressional action. It would, therefore, be useless for this Government to conclude a convention unless there were reasonable grounds to believe that it was of a character to commend itself to Congress and that the necessary legislation to make it effective could be obtained.

AGENDA OF THE CONFERENCE

The Department understands that the Conference is to consider solely the question of the international trade in arms, munitions and implements of war, taking as a basis for discussion the draft convention prepared by the Temporary Mixed Commission of the League of Nations which was communicated to this Government under date of October 7, 1924.⁴⁶ The Department further understands that the Conference is strictly an international conference and that all States, whether members or non-members of the League, will participate on the same basis in all the deliberations and functions of the Conference. It further understands that the draft convention, while serving as a basis for discussion, is susceptible of any and all modifications which may be considered desirable by the participating States.

⁴⁶ *Ibid.*, 1924, vol. II, p. 76.

Before proceeding to a consideration of the draft convention article by article, the Department desires to take up the three important principles underlying the convention in its present form, as follows:

- (1) The licensing system;
- (2) The restriction of sales to recognized governments and belligerents, and
- (3) The prohibited zones.

THE LICENSING SYSTEM

Under existing legislation the President is authorized whenever in his opinion conditions of domestic violence exist which are or may be promoted by the importation of arms from the United States, to prohibit such exportation except under licenses in the case of countries in this hemisphere and countries in which the United States exercises extraterritorial jurisdiction. The draft convention contemplates the extension of this system of licensing to cover all countries of the world in time of peace irrespective of the conditions prevailing in such countries. The purpose of the licensing system, as indicated in the Convention, in the securing of adequate information with regard to the movements of arms and ammunition and, taken in conjunction with other provisions of the Convention, to prevent such arms from reaching the hands of unauthorized parties.

As far as the United States is concerned, the statistical data could be obtained without requiring the somewhat elaborate system of licensing. In fact at the present time the United States published [*publishes*] statistics, both of production and of export and import trade, which are believed to be more complete than the corresponding statistics of any other country. While the Department is prepared to take up with Congress the question of securing the necessary legislation for the licensing of the export of arms and ammunition in international trade, in the event that an agreement at Geneva should be reached on this basis, nevertheless it seems preferable, and you are authorized to suggest, if occasion offers, that the ends of publicity would be equally well served by the requirement that in the case of each exportation of arms and ammunition, whether by a government or by a private company or individual, there should be filed with the appropriate local authorities an export declaration or statistical statement giving full data with regard to the nature, size, and destination of the shipment. A copy of such declaration could also accompany the shipment. (As indicated below, there would, however, be no objection to providing for a system of licensing with respect to the "prohibited zone.")

The suggestion has been made that special export declarations for arms shipment be required rather than licenses granted by the Gov-

ernment. In this connection certain objections have been raised to the license system and the views of the War Department on this subject might briefly be summarized as follows:

(a) Licensing might involve the Government in a responsibility as to the ultimate destination of the shipment, a responsibility which it is in no position to carry out since it has no control of the arms once the shipment leaves its territory.

(b) Licensing might result in undue interference with private trade.

(c) Non-producing States object to a requirement that they turn to other governments to secure licenses for the export from a foreign country of the arms necessary for their national defense.

(d) A licensing system if it placed impediment in the way of acquirement abroad by non-producing States of the arms necessary to their defense would tend to force such States to become producers of arms. This result would not help toward world peace.

The Department therefore desires you to ascertain whether effectual agreement could be reached on the basis that the term "export declarations" or its equivalent should be inserted for "licenses" in various articles of the convention as hereafter indicated. This is not, however, a point of such vital importance as to justify a course of action which would seriously imperil the success of the Conference.

In the event, therefore, that the Powers represented at the international conference are generally agreed that the license system is the only satisfactory method of securing the control and the statistical data desired, the Department would not wish to jeopardize the success of the Conference by advocating the abandonment of the license system.

SALES RESTRICTED TO RECOGNIZED GOVERNMENTS AND BELLIGERENTS

This provision of the Convention should be amplified so as clearly to reserve the right of this Government or of its nationals to make direct sale of arms and war material to the authorities of any self-governing dominion, colony, dependency, mandated territory, and to the federal or administrative subdivision thereof with the consent of the central authority. It is obvious that this Government could not acquiesce in the view that sales to self-governing dominions should be made exclusively by one State or that the Mandatory or Sovereign Powers should be permitted to monopolize the trade in arms with countries under mandate, or with their colonies and thereby defeat the principle of equality of opportunity.

There is a further question of no little difficulty, which arises under the provisions of the Convention restricting sales to recognized governments or belligerents. If this Government does not extend recognition to a particular régime while other countries extend such recognition, the result would be that other countries

would be free to export arms to that country and American manufacturers would be prevented from so doing. This situation is taken into account in the modification of Article 3, Paragraph 1.

THE QUESTION OF THE PROHIBITED AREA

The Department desires you to support the position that the Convention as at present drafted should be divided into two separate conventions—one dealing with publicity and the control of the general export trade in arms, the other dealing with the special supervision of the trade in the so-called prohibited zones which it is apparently the desire of certain Powers to place under a further system of control. In this connection you will note that the Department's instruction of June 17th favored the division of the Convention as above indicated and that on page 147 of the League publication⁴⁷ there is given a detailed statement as to the desirability of this procedure.

The Department believes that it would facilitate the consideration of the Arms Traffic question in this country if the two questions, that of the general publicity and control on the one hand and that of the prohibited areas on the other, were dealt with separately. They are distinct problems. The latter only concerns this Government to a very limited degree. The United States has no territorial possessions in the general region (i. e. Africa, South Western Asia, etc.) which have in the past been considered as possible prohibited areas. Further, neither this Government nor its nationals have ever engaged in any considerable traffic in arms with this area of the world. The question of the measure of control to be exercised in any such "prohibited zones" is largely a matter for determination by the Powers which have colonies or mandates in this region, provided, however, that no restrictions are imposed which would impair the principle of most-favored-nation treatment.

Whether this Government could properly be a party to a convention setting up a control of the arms trade in the prohibited areas can only be determined when the scope and purpose of the convention is more clearly defined. In any event the Department would not desire you to support any effort directed toward the placing in the "prohibited zone" of sovereign States, such for example as Persia, which the Department notes has already made vigorous protest against such action.

In taking up the discussion of the Convention, article by article, the Department will deal further with this question of the "prohibited zone" in considering Articles 9 to 25 inclusive.

⁴⁷League of Nations, *Conference for the Control of the International Trade in Arms, Munitions and Implements of War* (C. 758. M. 258. 1924. IX).

**SHIPMENTS BY GOVERNMENTS TO BE MADE PUBLIC AS WELL AS
SHIPMENTS BY PRIVATE PARTIES**

It should be made entirely clear that the Convention covers the full publicity for all export of arms by or on behalf of the governments themselves, (exclusive, of course, of shipments for their own military forces abroad) as well as shipments by private individuals or companies within the territories of the High Contracting Parties. The reasons for this are obvious. One of the chief purposes of the Convention is to obtain statistical information with respect to the volume, character, destination, etc., etc., of the international trade in arms and ammunition. In the case of certain countries such export is to a large degree carried on by or on behalf of the governments which manufacture the arms in Government factories or, as the case may be, directly control the bulk of the manufacture and trade. If the export of arms and ammunition by Governments is not given publicity, the result would be that the figures on exports from countries such as the United States, where the trade in arms is almost entirely carried on by private companies, would be out of its proper ratio if contrasted with the export of the countries of which the governments themselves engage in a considerable traffic in arms. This point will be dealt with in further detail in considering the specific articles of the Convention.

CONSIDERATION OF THE CONVENTION ARTICLE BY ARTICLE

PREAMBLE*

"Whereas the Convention of Saint Germain signed by the High Contracting Parties therein mentioned has not entered into full force and effect;

"Whereas it is necessary to exercise a general supervision over the international trade in arms, munitions and implements of war, with the object of securing the fullest possible publicity in regard to such trade;

"Whereas the existing treaties and conventions, and particularly the Brussels Act of July 2nd, 1890,⁴⁸ regulating the traffic in arms and munitions in certain regions, no longer meet present conditions;

"Whereas a special supervision of the maritime zone adjacent to certain countries is necessary to ensure the efficacy of the measures adopted by the various Governments both as regards the import of arms, ammunition and implements of war into these countries and their export from their own territory;

"Have appointed"

*In each case the text of the provision as contained in the Draft Convention is quoted and then followed by discussion and comment. [Footnote in the original.]

⁴⁸William M. Malloy (ed.), *Treaties, Conventions, etc., Between the United States of America and Other Powers, 1776-1909* (Washington, Government Printing Office, 1910), vol. II, p. 1964.

In view of the fact that the Convention of Saint Germain never became generally effective, it is considered preferable that it should not be mentioned in the preamble. Further, the statement that this Convention "has not entered into full force and effect" might lead to the erroneous conclusion that it was partially effective. The Department does not understand that this is the case with respect to any of the important producing countries. Further, there is already included in Article 27 a provision to the effect that the Convention of Saint Germain is to be superseded by the present Convention in so far as the Powers which ratified the former are concerned.

The second paragraph of the Preamble should be modified to avoid giving any ground for the erroneous conclusion that the purpose of the Convention is to provide for the international "general supervision" over the arms trade. It is suggested, therefore, that the second paragraph of the Preamble be modified to read:

"Whereas the High Contracting Parties are agreed as to the desirability of exercising, each in so far as it is concerned, a supervision over the foreign trade in arms, munitions and implements of war," etc., etc.

In the event that the present draft convention is divided into two separate conventions, as heretofore suggested, the Preamble would of course be modified to meet this change.

ARTICLE I

"This Convention applies to the following arms, munitions and implements of war:

Category I

"1. Arms and Munitions, Assembled or Component Parts, Exclusively Designed for Land, Sea or Aerial Warfare, Whatever Their Mode of Employment.

(List follows)

"2. Implements of War Hereafter Enumerated and Component Parts Which are Capable of Being Utilized Only In the Manufacture of the Said Material.

(List follows)

Category II

"Arms and Munitions, Assembled or Component Parts, Capable of Use Both For Military and Other Purposes.

(List follows)

Category III

"Arms and Munitions Having No Military Value."

(List follows)

It has been pointed out by representatives of American manufacturers particularly interested in the export of sporting arms and arms for personal self-defense that the division of arms into categories according to caliber is misleading and unless modified would result in placing in Category I, that is arms which can only be exported under license, certain sporting arms which could properly be exported without license. Further, it is to be noted that pistols and revolvers are in Category I.

It has therefore been suggested, and it seems reasonable to the Department, that the Categories as at present drafted should be modified so as to exclude from Category I pistols, revolvers and sporting arms.

In this connection the following recommendations of the War Department with regard to Categories as contained in a suggested redraft of Article 1 are deserving of careful consideration.

ARTICLE 1

"This convention applies to the following arms, munitions and implements of war;

Category I

"(a) Arms, ammunition, and implements of war, exclusively designed for land, sea, or aerial warfare, which are, or shall be, comprised in the equipment of the armed forces of the different states, whether military, naval or aerial, with the exception of pistols and revolvers, and with the exception of sporting arms.

(b) All arms except pistols, revolvers and sporting arms and ammunition for the same, which, after having been employed in the services of the different states, are no longer part of their equipment but remain capable of being utilized for military purposes to the exclusion of any other utilization.

(c) Component parts of the items listed in (a) and (b) above, if capable of being utilized only in the manufacture or repair of the items listed in (a) and (b) above, for land, sea or aerial warfare."

The War Department suggests the omission of Category II.

In view of the fact that the control of the export of such weapons as pistols, revolvers and sporting arms may be desirable within the "prohibited zone", there would be no objection, in principle, to retaining a second category to include such arms. The export to the prohibited zone, except under license, of arms in both Categories I and II might be prohibited.

In connection with the definition of categories, or wherever in the convention it might be considered most appropriate, the Department would desire to see an article inserted absolutely prohibiting international trade in asphyxiating, poisonous or other gases for use in

war. In this connection you will recall that the Treaty between the United States, Great Britain, France, Italy, and Japan, signed on February 6, 1922,⁴⁹ contained, in Article 5, a prohibition against the use of such gases. This Treaty, it may be noted, is not yet effective as it has not been ratified by France. However, as this Government and various other governments are clearly committed to the principle that poisonous gases should not be used in warfare, there is every reason for you to press for the inclusion of an article prohibiting the shipment of such gases in foreign trade for possible use in time of war. The form which such an article might take, following in part the phraseology of the Treaty of February 6, 1922, might be somewhat as follows:

The use in war of asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices, has been justly condemned by the general opinion of the civilized world and a prohibition of such has been declared in treaties to which a majority of the civilized Powers are parties. The High Contracting Parties therefore agree absolutely to prohibit the export from their territory of any such asphyxiating poisonous or other gases and all analogous liquids, intended or designed for use in connection with operations of war.

ARTICLE 2

"The High Contracting Parties undertake not to export themselves, and to prohibit the export of arms, munitions and other implements of war enumerated in Category I, except on the conditions hereinafter mentioned."

Instead of a general prohibition against the export of arms and ammunition followed by exceptions—a misleading form of drafting, since it is not the purpose of the Convention to prohibit the export of arms or ammunition—the Department considers that it would be preferable to combine Article Two with the first paragraph of Article Three, as indicated below:

ARTICLE 3

"Notwithstanding this prohibition, the High Contracting Parties may grant in respect of arms, munitions and implements of war whose use is not prohibited by international law, licenses for the export of arms, munitions and implements of war enumerated in Category I, in the following conditions."

If Article Two is suppressed as above indicated, the first paragraph of Article Three might well be modified to read:

"Each of the High Contracting Parties agree that the following conditions shall be applicable to the exportation or shipment

⁴⁹ *Foreign Relations*, 1922, vol. I, p. 267.

from their territory, including self-governing dominions, colonies, protectorates, mandated territories, of all arms, munitions and implements of war enumerated in Article I, Category 1, exclusive of arms shipped for the use of their own military forces, whether such export is by or on behalf of the Government itself or by private companies or individuals."

ARTICLE 3, PARAGRAPH ONE

"Licenses are not to be granted except for a direct supply to a Government recognized as such by the Government of the exporting country."

This paragraph should be modified somewhat as follows:

"Exports* are not to be permitted except for a direct supply to a government recognized by at least one of the High Contracting or adhering Powers or to the authorities in any self governing dominion, colony, protectorate, mandatory territory, or to the authorities in any federal or administrative subdivision thereof, with the consent of the central authorities of the importing country."

ARTICLE THREE, PARAGRAPHS TWO AND THREE

(2) "The Government acquiring the consignment must act through a duly accredited representative."

(3) "Such representative must produce a written authority from the Government he represents for the acquisition of each consignment, which authority must state that the consignment is required for delivery to that Government for its own use."

To replace or to supplement the provisions of paragraphs two and three it is suggested that the visa of the consul of the importing country upon the export declaration (or license as the case may be) should be sufficient indication that the shipment referred to in paragraph 1 is authorized by the Government of that State.

ARTICLE THREE, PARAGRAPHS FOUR, FIVE AND SIX

(4) "The form in which this license shall be given shall, so far as practicable, be that given as an appendix to the present Convention.

"Each licence must contain a description sufficient for the identification of the arms, munitions and implements of war to which it relates and the names of the exporter and the acquiring Government, ports of embarkation, and disembarkation, means of transport, intended route and destination.

(5) "A separate licence shall be required for each separate consignment which crosses the frontier of the exporting country, whether by land, water or air, and shall accompany each separate consignment.

(*FOOTNOTE: In the event that it is decided that licenses rather than export declarations are to be provided this and subsequent articles should be modified accordingly.) [Footnote in the original.]

(6) "A return of the licences granted shall be sent quarterly to the Central International Office referred to in Article 8 of the present Convention by the issuing Governments; importing Government, when High Contracting Parties, shall also forward quarterly to the Central International Office a return of the same licences enclosing particulars of the heading under which the imported goods will appear in their imports statistics."

In the event that export declarations replace licenses, it would be necessary to make corresponding changes in the above paragraphs.

If licenses are retained it would be important to clarify exactly what is meant by the reference to the "return of the licenses" to the Central International Office. Does this mean a report of the total export of various categories of arms based on information obtained from the licenses or is it the intention that copies of the licenses themselves should be forwarded to the Central Office? In this connection your attention is called to the provision in Article 8 which would appear to indicate that the return of the licenses covers an indication of the quantities and the destination of the arms exported under licenses.

ARTICLE 4

"Further, licences for the export to private individuals of component parts covered by Category 1 may be granted on the following conditions:

"The said component parts must be exported direct to a recognized manufacturer of war material, *duly authorized by his own Government*, on a declaration from him to the effect that the said component parts are required by him.

"The Government which grants the licence and the Government of the importer's country shall take all adequate precautions to ensure that the said component parts are sent direct to their destination.

"The licences granted in the terms of the present Article shall, so far as practicable, be drafted according to the form annexed to the present Convention, and shall conform to the provisions of the present Convention, and particularly to those of Article 8."

The provision that the exporting government shall "take all adequate precautions to insure that the said component parts are sent direct to their destination" is one which it would be difficult to carry out since the exporting country cannot control the shipment after it has left its territory. This provision should be modified or eliminated.

With respect to the shipment of component parts, the following suggested redraft of Article 4, prepared by the War Department, is submitted to you for your consideration.

"The export of items or component parts of items specified in Article 1, including samples for demonstration, may be per-

mitted to recognized manufacturers, or to trade representatives of the exporter, on the following conditions:

1. The said items or component parts of items must be exported direct

- (a) to a recognized manufacturer of war material duly authorized by his own government; or
- (b) to a trade representative of the exporting manufacturer.

The export declaration (or license) must show that said item or component part is required by the importer.

2. The government which permits the export and the government of the importer's country, shall take all reasonable precautions to insure that the said items or component parts are sent direct to their destination."

ARTICLE 5

"Without prejudice to any obligations to which they may have subscribed under international conventions dealing with transit, the High Contracting Parties, when they have reason to believe that any consignment of arms, munitions or implements of war in transit through their territory does not conform to the provisions of the present Convention, undertake to investigate the circumstances and if necessary to prohibit the transit."

It is suggested that before the word "transit" the word "land" be inserted. The Department feels that it would be undesirable to conclude a convention which might conceivably be construed as authorizing the detention, for examination, of ships temporarily in transit through the territorial waters of one of the High Contracting Parties merely because of the suspicion that such ship might possibly contain a consignment of arms not properly authorized. Such a provision might easily lead to abuse. Further, this Government would not wish to be obligated by an international convention to exercise such a supervision with respect, for example, to ships passing through the Panama Canal. Nor would it desire that such a supervision be exercised under the present Convention upon American vessels passing through, or temporarily remaining in, the territorial waters of other countries.

The Department feels that the phrase "does not conform to the provisions of the present Convention" is too broad and general. It is suggested that it be replaced by the phrase "is not properly authorized."

Furthermore, it might be pointed out that a third State would presumably have no opportunity to examine goods shipped in bond over its territory and shall not therefore be under any obligation to control arms so shipped. A provision to the effect that "articles shipped in bond" should not be disturbed might be considered in this connection.

ARTICLE 6

"Without prejudice to the provisions of Article 7, arms and munitions in Categories II and III may, if the exporter's country so desires, be exported without licence. Provided, nevertheless, that in the case of arms and munitions of Category II the High Contracting Parties hereby undertake to determine from the size, destination and other circumstances of each consignment whether these arms and munitions are intended for war purposes. If such is the case, the High Contracting Parties undertake that the shipments shall become subject to Articles 2 to 5."

While the Department concurs in the view that arms not in Category I should be shipped without license (except in the case of the prohibited zone) there is no reason why there should not be full publicity as to such shipments. In this way it would be much easier to detect and thus to prevent the shipment in large quantities of arms which are alleged to be for sporting purposes though in reality they may be for military purposes. Each of the High Contracting Parties would be free to provide the necessary machinery to secure the desired publicity but the items of information desired might well be indicated in the convention and it might further be provided that all such information should be sent to the International Central Office. The War Department prefers that Article 6 be omitted.

ARTICLE 7

"The High Contracting Parties further undertake to prohibit the export of arms, munitions and implements of war enumerated in Article I, to the maritime or territorial zones specified in Article 9.

"Nevertheless, the High Contracting Parties may grant export licences, notwithstanding this prohibition, provided that they conform to the provisions of Articles 3 to 5. The competent authorities must satisfy themselves, before issuing the licences, that the arms, munitions or implements of war are not intended for export to any destination or for disposal in any way contrary to the provisions of this Convention."

If the Conference adopts the suggestion with respect to the separation of the Convention into two parts, i. e. one covering publicity and the general control and the other the prohibited areas, it would be necessary to indicate definitely in Article Seven the extent of the prohibited zone. It is also desirable to include in this article a provision for most-favored-nation treatment.

ARTICLE EIGHT

"A Central International Office shall be established by the Council of the League of Nations for the purpose of collecting, preserving and publishing documents of all kinds exchanged by the High Contracting Parties with regard to the trade in and the distribution of

arms, munitions and implements of war, as well as the text of all laws, orders and regulations made for the carrying out of the present Convention.

"Each of the High Contracting Parties shall publish an annual return of the export licences which each may have granted in respect of arms, munitions and implements of war in pursuance of the present Convention, mentioning the quantities and destination of the arms, munitions and implements of war to which the export licences refer. A copy of this return shall be sent to the Central International Office.

"The High Contracting Parties further undertake to forward to the Central International Office all information which they will be in a position to provide relating to consignments under contracts entered into before the coming into force of the present Convention."

It is clear to the Department that any provision that the Central International Office should be established by the Council of the League of Nations would be objectionable and would seriously prejudice the prospect of the ratification of the Convention. It is noted that provision is made in a subsequent Article for a "conditional or partial adherence." The Department feels, however, that it would be unfortunate for the Convention to be drafted in a form to make amendments or reservations essential. You should therefore endeavor to secure an alteration in Article Eight so that that Article shall not provide for the designation of the International Office by the Council of the League. In this connection the Department has noted, on pages 88 and 191 of the League publication,⁵⁰ that various proposals for the separation of the International Office from the League have been made but not adopted by the League committees on the ground, chiefly, that committees of the League could hardly themselves suggest that the Central Committee be entirely divorced from the League. The International Conference, however, being entirely independent of the League, would be in a different position, and it would be appropriate for you to indicate this Government's view that the Central International Body should be established by agreement among the High Contracting Parties or that it should be set up pursuant to the agreement of certain specified Powers.

Upon the opening of the Conference the Department would be glad to receive from you any further suggested formulae to cover this point which you feel might profitably be suggested to the Conference.

It is further suggested that the last paragraph of Article Eight be omitted. There will be considerable time between the signature of any convention and its going into effect. Arms manufacturers will be clearly on notice as to the conditions which they may be called upon to meet, in the event the Convention is made effective, and it would

⁵⁰ See footnote 47, p. 32.

therefore seem proper that all shipments after Convention goes into effect should be subject to its terms, whether contracted for prior to or after such date. It would seem unnecessary, and perhaps prove to be impracticable, to endeavor to secure specific information relating to shipments made before the coming into force of the convention since the legal provisions for securing such information might not then be in effect in certain countries. However, in view of the fact that the United States already secures and publishes such data there would be no serious objection to this provision unless it meant, in effect, that the United States would be the only country to supply this information to the Central Bureau.

It is felt that this Article should further be amended to provide for a more frequent publication of statistics by the Central Bureau, which might well be done quarterly rather than annually.

Further it should be provided that the High Contracting Parties may submit to the Central Bureau information which they receive as to infractions of the Convention for circulation by the Central Bureau to the High Contracting Parties. It is doubtful, however, whether the Central International Office should undertake to pass upon the information so furnished. It should rather act merely as a channel of transmission and of publicity.

Finally it would be desirable to provide in Article 8 that the cost of the maintenance of the Central Bureau should be apportioned equitably among the High Contracting Parties. Possibly the best basis for computing the cost would be according to the Trade of each country as reported to the Central International Office.

III. THE QUESTION OF THE PROHIBITED AREAS AND THE CONTROL TO BE EXERCISED THEREIN

ARTICLES NINE TO TWENTY-FOUR, INCLUSIVE

As already indicated, it is not felt that this section of the proposed Convention vitally concerns the United States Government, which has no territorial possessions, colonies, dependencies or mandates within the zones contemplated as prohibited areas.

The only question which would appear to arise, so far as this Government is concerned, with respect to the Articles in question is whether it could consent that its nationals and their trade should be subject to the supervision proposed. As far as the provision for land surveillance is concerned, it seems clear that this Government could not object to any reasonable measure of control exercised in territory under the sovereign or mandatory control of other Powers. It would, of course, insist that such control should not result in discrimination, denial of the principle of equality of opportunity, or undue interfer-

ence with legitimate trade. Subject, however, to these reservations, the Department would not be disposed to object to any agreement which might be reached among the interested Powers for a uniformity of control in the matter of importation of arms into the so-called "prohibited zone" if the zone is under the authority of the several Contracting Powers.

This Government would not, however, consent to third Powers exercising any form of control over its trade with other sovereign countries, subject of course to the rules applicable in time of war to contraband or blockade.

It should further be pointed out that this Government could not consider itself bound by any such provision as that included in the penultimate paragraph of Article Thirteen, which states: "In cases where a violation has been duly proved, no further transit license shall be granted to the offending State without the previous consent of the Council of the League of Nations."

With respect to the question of maritime supervision, the question would naturally arise whether this Government could recognize the right of the High Contracting Parties to visit and search on the sea outside of territorial waters.

The Department understands from Article Eighteen that the supervision contemplated applies to "native vessels of less than five hundred tons." From the foregoing it appears unlikely that vessels flying the American flag would be affected. As far as the Department can judge from the facts before it, it would not be disposed to object to the exercise of supervision of this character by other Powers within certain specified zones adjacent to their own territories with respect to native vessels of the tonnage suggested, but it would not undertake to participate in any such supervision.

As already suggested the Department is inclined to believe that it would not serve any useful purpose for this government to become a party to a convention comprising provisions similar to those in Articles 9-24. However, as this government is a party to the Brussels Act of 1890 which contains somewhat similar provisions the Department would be prepared to give careful consideration to the question in the event that you should affirmatively recommend the signature of such a convention.

ARTICLE 25

"In time of war, Articles 2, 3, 4, 5 and 6 shall be considered as suspended from operation until the restoration of peace so far as concerns any export and transit of arms, munitions or implements of war to or on behalf of any of the belligerents recognized as such by the exporting country and the countries of transit, provided such recogni-

tion has previously been communicated to the other High Contracting Parties."

You may wish to consider a modification of this Article similar to that suggested in the case of Article 3, paragraph 1, namely the substitution for "the exporting country" of the phrase "one of the High Contracting or Adhering Powers".

It is further suggested that "and the countries of transit" be eliminated from Article 25. It is felt that this question of the right of the third State to stop munitions in transit destined for a recognized belligerent should be dealt with according to the applicable principles of international law. A third State, because it does not recognize the belligerent in question, should not be placed under any special obligation by this Convention to stop arms in transit.

It is further recommended that the provision that recognition of belligerency must be communicated to the other High Contracting Power be omitted.

In the event that the license system is abandoned this article would be unnecessary but in that event Article 3, paragraph 1 should be amended to include "belligerents."

ARTICLE 26

"Any Government may, on signing or adhering to the present Convention, declare that it accepts its provisions partially or conditionally, provided that the High Contracting Parties consent and that it does not thereby affect the effectiveness of the supervision of the trade in arms, munitions and implements of war.

"Nevertheless, the Convention shall only apply to Powers availing themselves of the option provided in the previous paragraph if, within the period of one year from the notification by the French Government of the deposit of their ratification (or adherence), partial or conditional, no opposition to such ratification (or adherence) has been raised by any of the Contracting Parties."

No comment.

ARTICLE 27

"All the provisions of former general international Conventions relating to the matters dealt with in the present Convention, including the Convention for the Control of the Trade in Arms and Ammunition and the protocol signed at Saint Germain-en-Laye September 10th, 1919, shall be considered as abrogated in so far as they are binding between the Powers which are Parties to the present Convention.

"The present Convention shall in no way affect the rights and obligations which may arise out of the provisions either of the Covenant of the League of Nations or of the Treaties of Peace signed in 1919 and 1920 at Versailles, Neuilly, Saint German and Trianon or of the Treaty limiting Naval Armaments signed at Washington

on February 6th, 1922,⁵¹ and the provisions of Agreements registered with the League of Nations and published by the League up to the date of coming into force of the present Convention, so far as the Powers which are signatories of or benefit by the said Treaties or Agreements are concerned."

Your attention is particularly directed to the provisions in Article 27 that the "Convention shall in no way affect the rights and obligations which may arise out of the provisions . . .⁵² of Agreements registered with the League of Nations and published by the League up to the date of coming into force of the present Convention. In view of the large number of agreements which have been so registered, the Department desires you, before acquiescing in any such provision, to ascertain whether any of the Powers parties to the proposed Convention have concluded and registered arrangements the terms of which conflict with those of the proposed convention. In the event that such is the case, the Department would wish you to consider the bearing of such arrangements upon the effectiveness of the control proposed before consenting to the insertion of any such provision as that quoted above.

ARTICLE 28

"The Council of the League of Nations shall cause to be published an annual report on the operation on [of] the present Convention. "This report shall be presented to the Assembly of the League of Nations."

The Central International Office should publish the report quarterly rather than annually. If the Council of the League also desires to make a report, it would of course be entirely free to do so without any provision in the Convention to that effect.

ARTICLE 29

"The present Convention, of which the French and English texts shall both be authentic, is subject to ratification. It shall bear today's date and shall be open for signature by the Powers until (date).

"Each Power shall address its ratification to the French Government, which shall at once notify the deposit of ratification to each of the other signatory Powers.

"The instruments of ratification shall then remain deposited in the archives of the French Government."

No comment.

⁵¹ For text of the treaty limiting naval armament, see *Foreign Relations*, 1922, vol. I, p. 247.

⁵² Omission indicated in the original instruction.

ARTICLE 30

"The High Contracting Parties will use their best endeavors to secure the accession to the present Convention of the other States, whether members of the League or not. On and after (date) the present Convention may be acceded to by any Power. Accession shall be effected by an instrument communicated to the French Government, which shall at once notify such deposit to all Powers which are signatories of or accede to the Convention.

"The instruments of accession shall remain deposited in the archives of the French Government."

Omit "whether members of the League or not."

ARTICLE 31

"Disputes between the Parties relating to the interpretation or application of this Convention shall, if they cannot be settled by direct negotiation, be referred for decision to the Permanent Court of International Justice. In case either or both of the Parties to such a dispute should not be parties to the Protocol of Signature of the Permanent Court of International Justice, the dispute shall be referred, at the choice of the Parties, either to the Permanent Court of International Justice or to a court of arbitration."

It might be well to insert after "Justice" the following: "to the Hague Tribunal."

ARTICLE 32

"The present Convention will not come into force until it has been ratified by twelve Powers, among whom shall be the following: Belgium, the United States of America, France, Great Britain, Italy, Japan and Russia.

"The date of its coming into force shall be the . . . day after the receipt by the French Government of the twelfth ratification. Thereafter, the present Convention will take effect in the case of each Party . . . days after the receipt of its ratification or accession."

The important point to be considered in connection with Article 32 is that a sufficient number of arms producing States should be included among the Powers whose ratification is necessary before the Convention enters into full force and effect. Further, it should be noted that if any of the participating or adhering powers have not been recognized by the United States the Department might desire to consider whether a reservation at the time of signature would be necessary to safeguard its position.

ARTICLE 33

"The present Convention may be denounced by any Party thereto after the expiration of ten years from the date when it came into force in respect of that Party. Denunciation shall be effected by notifi-

cation in writing addressed to the French Government, which shall forthwith transmit copies of such notification to the other Parties, informing them of the date on which it was received.

"A denunciation shall take effect two years after the date on which the notification thereof was received by the French Government, and shall operate only in respect of the notifying State."

The Department considers that the period of ten years for the effectiveness of the Convention is far too long. The question of the control of the traffic in arms is yet in its experimental stage, and this Government would not desire to be bound for any such protracted period without an opportunity to examine the effectiveness and practicability of the contemplated procedure. It is therefore suggested that "ten years" be replaced by "three years" and that denunciation should take effect "one year" after notification.

It might be well to add that after the expiration of three years the Convention, unless denounced, would continue to remain in force until one year after denunciation.

ARTICLE 34

"The High Contracting Parties agree that, at the conclusion of a period of five years, the present Convention shall, in the light of the experience then gained, be subject to revision upon the request of a third of the said High Contracting Parties."

"Five years" should be replaced by "three years" to bring this Article in line with the preceding one.

In conclusion, the Department desires again to emphasize the position indicated in the early pages of this instruction; namely, that it would welcome any agreement which, while protecting the legitimate interests of this Government, might be calculated to lessen the evils of the illicit trade in arms and war material and thereby aid in the preservation of peace.

In working toward this end, this Government does not desire that its representatives at the Conference should be bound by instructions on points of drafting or phraseology. It is believed, however, that the foregoing instructions will serve to indicate the points of particular interest to this Government.

You should consider the proposed rephrasing of the various Articles of the Convention as suggestive rather than as mandatory. In the event that the discussions at the Conference should raise questions involving substantial modifications on matters of principle, you should communicate with the Department for further instructions.

Before any agreement is signed, the Department desires you to indicate the final form of the Convention in order that specific instructions with respect to the signature of the Convention may be given.

I am [etc.]

FRANK B. KELLOGG

500.A14/167c

The Secretary of State to the American Delegation

No. 2

WASHINGTON, April 16, 1925.

SIRS: With reference to the Department's general instruction to you of even date with respect to the forthcoming international conference to be held at Geneva on May 4th, to consider the conclusion of a convention with respect to arms traffic, there is given herewith for your information and guidance a statement of the views of the Department with respect to the attitude of the American Delegation in the event of the participation in the conference of representatives of the régime now functioning in Russia or the signature of, or adherence to, the proposed convention by Russia through that régime.

It is assumed that no action by the American Delegation or by this Government should be construed or open to a fair construction as constituting recognition of the régime now functioning in Russia.

The bare participation of the United States through an American Delegation in a conference to deal with traffic in arms called by the League of Nations in which delegates representing the Soviet régime are also participants would signify nothing.

Again, the bare signature of a multi-lateral Convention by American delegates which was signed also by Soviet delegates would not in itself constitute recognition of the Soviet Government as the Government of Russia, although possibly the formal ratification of the Convention without explanation might be subject to divergent constructions. It may be observed in this connection that the Allied Powers in permitting Russia to sign with them the so-called Straits Convention⁵³ at Rome on August 14, 1923, did not regard their action as constituting recognition of the Soviet régime. No reservations were made by them. It has been pointed out, however, by a recent commentator, Ernest LaGarde, that it is difficult to reconcile with non-recognition what took place. Nevertheless, he points out that the Soviet Government made no effort to claim that its participation and signature constituted recognition of their régime as the Government of Russia.

In the present case, however, Article 32 of the proposed Convention declares that it shall not come into force until it shall have been ratified by twelve Powers, among whom are specified both the United States and Russia. While the Russian state as such may be said in a strict sense to be the party contemplated, that state nevertheless is now acting through a régime not recognized by the United States as the Government of Russia. Article 32 would thus seem to indicate that the Convention might become operative upon the action of Russia

⁵³ With Turkey, signed at Lausanne, July 24, 1923; for text, see League of Nations, *Treaty Series*, vol. xxviii, p. 115.

as the twelfth state, making known its consent to the Convention through the medium of the Soviet régime, and that consequently all of the signatory Powers were disposed to permit the arrangement to become operative and binding upon each through the action of the Soviet régime. Such consent unless explained might well be taken to amount to recognition of that régime as the Government of Russia.

Again, it would be highly unwise for a country, such as our own, not recognizing the Soviet régime, to undertake any contractual obligation with respect to Russia so long as it was represented by a régime not recognized by us.

Accordingly, it is desired that, as a safeguard against any possible misconstruction of the attitude of the United States in signing a Convention at Geneva, or in accepting a Convention signed in its behalf, appropriate reservation be made covering the three following points: first, the effect of signing; secondly, the effect of failure on the part of the United States to object to the operation of Article 32 of the Convention; and, thirdly, the suspension of the operation of the Convention as between the United States and a signatory or adhering Power represented by a régime not recognized by the United States until such Power or signatory is represented by a Government recognized as such by the United States. The text of a reservation covering these points is set forth herein below.

It may be observed that this Government has consented in correspondence with other interested Powers to permit Russia to adhere to the treaty concerning Spitzbergen under terms which could in no wise be regarded as implying recognition of its Soviet Government.⁴⁴ It is understood that there is no objection abroad to this action by the United States, although there is not yet entire agreement as to the phraseology to be used with reference to the Soviet Government.

In order to deprive the Soviet régime of cause to complain that the United States is thwarting its effort to represent Russia in its foreign affairs, it is suggested that it might be unwise for the American Delegation to endeavor to have stricken from Article 32 the provision with respect to Russia. So long as this Government is abundantly able to prevent misconstruction of its acts or those of the American Delegation by appropriate reservations, it should safeguard its action by that method rather than by aggressive steps serving to weaken the position of Russia or its delegates in the conference.

RESERVATION

The action of the American Delegation in signing this Convention is taken with the clear understanding that it is not to be construed

⁴⁴ See pp. 201 ff.

as constituting the recognition by the United States of the régime or entity functioning in any signatory or adhering Power as the Government thereof which is not recognized by the United States as the Government of such signatory or adhering Power; secondly, that the failure of the United States to object to the coming into force of this Convention through the ratification thereof by any specified Power pursuant to Article 32 through the medium of a régime or entity functioning therein which has not been recognized by the United States as the Government of such Power, shall not be regarded as constituting the recognition by the United States of such régime or entity as the Government of the Power in whose behalf it acts; and, thirdly, that the acceptance of this Convention by the United States shall not put into force any contractual obligation between itself and any signatory or adhering Power represented by a régime or entity not recognized by the United States as the Government thereof until such Power is represented by a Government recognized by the United States.

I am [etc.]

FRANK B. KELLOGG

500.A14/239 : Telegram

The Chairman of the American Delegation (Burton) to the Secretary of State

GENEVA, May 13, 1925—midnight.

[Received May 14—1:10 a. m.]

28. The French delegation apparently desire to secure an insertion in the draft convention of a provision to the effect that the high contracting parties undertake not to authorize the exportation of war material to countries where domestic legislation prohibits the importation of such material. Their objective is to secure the cooperation of exporting states in making effective the provisions of the treaties of Versailles, St. Germain, Trianon and Neuilly which prohibit the importation of war material by Germany, Austria, Hungary and Bulgaria.

A draft provision to the above effect has already been circulated by the Uruguayan representative and may shortly be discussed by the conference. While delegation doubts whether it would be practicable to attempt to secure legislation to make effective any such provision it would appreciate Department's instructions.

BURTON

500.A14/239 : Telegram

The Acting Secretary of State to the Chairman of the American Delegation (Burton)

WASHINGTON, May 14, 1925—6 p. m.

20. Your 28, May 13, midnight. The Department concurs with point of view expressed in your last sentence and believes the insertion of such a provision superfluous to the purposes of the convention. As it is understood that the suggestion of the French Delegation is directed at the four countries you mention, it is not considered that this provision, applicable only to a particular set of countries, is germane to the scope of a general convention.

GREW

500.A14/242 : Telegram

The Chairman of the American Delegation (Burton) to the Secretary of State

GENEVA, May 15, 1925—3 p. m.

[Received May 15—2:26 p. m.]

31. Egyptian delegate has called to attention of Conference that in view of regime of capitulations, Egyptian Government would not be in a position to enforce against foreigners of capitulatory countries penalties for infractions of a convention to control of arms treaty [*sic*]. Egyptian delegate proposed: (a) that Egyptian internal regulations be made applicable to all foreigners; (b) that consular authorities be instructed to enforce or assist the Egyptian Government in enforcing the observance of such regulations by their nationals; (c) that the capitulatory powers be moved to instruct their consuls and consular judges in Egypt to apply to infractions of the Egyptian laws committed by their nationals the laws and penalties applicable in their respective countries to similar infractions.

To carry out the above Egyptian delegate suggests "that the text of article two or three should contain an explicit statement that the high contracting parties should institute legislation in their respective countries to render effective the prohibition of export by unauthorized persons and that the introduction of such legislation should nowhere be delayed beyond a date to be fixed by the conference."

While delegation appreciates the problem facing the countries where extraterritorial rights are enjoyed and situation would presumably be somewhat similar in China and Persia to that in Egypt it is considered that it would create an unfortunate precedent and

be unwise even if it should be legally possible to provide that our consuls exercising extraterritorial jurisdiction should enforce provisions of Egyptian law.

Delegation considers however that it might be desirable if Department sees no legal difficulty to include in the convention a provision to the following effect: "The high contracting parties each insofar as it is concerned agree that the penalties which may be prescribed under legislation to carry out the terms of the present convention shall so far as possible be made applicable to their nationals in the case of any infractions of the convention by their nationals within the territory of states where extraterritorial rights are exercised."

BURTON

500.A14/244 : Telegram

The Chairman of the American Delegation (Burton) to the Secretary of State

GENEVA, May 15, 1925—9 p.m.

[Received May 16—12:01 a.m.]

32. My 28, May 13, 2 p.m. [*midnight*], Department's 20, May 14, 6 p.m. Upon further consideration proposal made by Uruguayan representative on French initiative, delegation considers that the principle involved if it could be properly phrased might serve as a useful precedent for securing cooperation of foreign powers in making effective provisions of our prohibition law.

As presented at this afternoon's meeting of Legal Committee, Uruguayan proposal was vigorously attacked by German and Hungarian service who received considerable support especially from the South American delegates. Proposal would have been defeated if put to vote but postponement was decided to enable consultation to ascertain whether formula could not be found which Germans and others could accept.

In the event as seems likely that the redrafted text provides that the country whose laws prohibit importation of arms should itself communicate these laws to the other high contracting powers with view to securing cooperation of such powers in preventing exportation of arms in violation of the laws of the importing country the delegation would be inclined not to oppose this provision. It is of course understood that no absolute obligation should be placed upon exporting country to pass upon laws of any other country but exporting state would have the opportunity of cooperation insofar as possible or desirable preventing acts on its own territory which would lead to violation of the laws of the importing state.

This matter will be further discussed Monday afternoon and further instructions would be much appreciated.

BURTON

500.A14/242 : Telegram

*The Secretary of State to the Chairman of the American Delegation
(Burton)*

WASHINGTON, May 16, 1925—3 p.m.

21. Your 31, May 15, 3 p.m. The laws of the United States applicable to American nationals in extraterritorial countries under Section 4086 of the Revised Statutes would without provision to that effect in the Convention include laws which may be passed to carry out terms of Convention primarily in this country. However, Department would not object to provision substantially as suggested by you. The meaning would be clearer if words "under legislation" were changed to "under their respective laws."

KELLOGG

500.A14/244 : Telegram

*The Secretary of State to the Chairman of the American Delegation
(Burton)*

[Paraphrase]

WASHINGTON, May 16, 1925—8 p. m.

24. Your No. 32, May 15, 9 p. m. If there is no obligation implied in the redraft suggested in third paragraph, its utility to the convention seems doubtful. If it does obligate a signatory government to prevent action, which though legal within its own territory might be contrary to the laws of another country, then it would prove embarrassing.

Department desires you, therefore, to oppose the proposal of the Uruguayan delegate as was indicated in its No. 20, May 14, 6 p. m.⁵⁵

Under such provision of the treaty, if Latin American states were to pass laws forbidding importation of arms and then communicated them to the United States, the freedom of action of this Government with regard to supporting deserving revolutionary governments would be seriously hampered.

KELLOGG

⁵⁵ At the meeting on May 18 of the Legal Committee the amendment proposed by the Uruguayan delegate was provisionally withdrawn, but was not later revived. See League of Nations, *Proceedings of the Conference for the Supervision of the International Trade in Arms*, p. 594.

500.A14/264 : Telegram

The Chairman of the American Delegation (Burton) to the Secretary of State

GENEVA, May 21, 1925—1 p. m.

[Received 4:30 p. m.]

42. Article 31 appears to imply compulsory obligation to submit to arbitration all disputes arising under the convention. Delegation desires early instructions whether it will not be necessary to modify this article to provide that in each case calling for arbitration a separate agreement should be reached by the high contracting parties concerned according to their constitutional requirements. In this connection delegation has considered article II of arbitration treaty between the United States and Sweden of June 24th, 1924.⁵⁶

From preliminary discussion it seems likely that other powers would object to modification of text of treaty which would tend to weaken obligation on other states to submit to arbitration but would not object to separate reservation on our part. If the Department desires a reservation to this article it may therefore be necessary that such reservations be made at time of signing or of ratification. If Department wishes delegation to endeavor to secure modified existing text please telegraph exact phraseology desired.

BURTON

500.A14/264 : Telegram

The Secretary of State to the Chairman of the American Delegation (Burton)

WASHINGTON, May 23, 1925—1 p.m.

36. Your 42, May 21, 1 P.M.

(1) Department does not consider it necessary to procure modification of Article 31 in sense suggested. Questions to be arbitrated under the Convention are of a character which can so clearly be foreseen, the Department is of the opinion that to require a provision like that in the Convention with Sweden concerning arbitration of broad classes of disputes might detract from the effectiveness of this agreement and quite likely would be seriously objected to by other countries. You are authorized, therefore, subject to final instructions, to sign the agreement without reservations but, of course, it must be distinctly understood that when it is submitted to the Senate for approval, the Senate may make some reservation on this point.

⁵⁶ For text of treaty, see *Foreign Relations*, 1924, vol. II, p. 702.

(2) In reference to written instructions of April 16, 1924 [1925], regarding Article 31, Department prefers to leave the last clause of Article 31 as it is, reading "either to the Permanent Court of International Justice or to a court of arbitration." This would include the Hague Court of Arbitration or any other arbitral tribunal we should agree to.

KELLOGG

500.A14/286 : Telegram

The Chairman of the American Delegation (Burton) to the Secretary of State

GENEVA, June 1, 1925—11 a.m.

[Received June 2—10:30 a.m.]

54. Military and Naval Committee have adopted a report to General Committee, going on record as to the need for dealing adequately with the subject of gas warfare. Report states that present Conference is not competent to deal with the subject and recommends that an international conference be called for the purpose as soon as possible.

It seems evident that this is part of a plan to keep this question in the hands of the League Secretariat. Delegation aware of possible difficulties in our accepting invitation to such a conference. On the other hand if we decline to participate we shall appear in the unfavorable light of having started the whole movement without a sincere desire for results.

One possible solution lies in the fact that a convention on this subject could be drafted very briefly and simply and that it does not really require the calling of a large international conference.

We could probably keep direction of the whole matter in our own hands if, on the presentation of the Military and Naval Committee report, delegation could state that it welcomed this evidence of a desire to deal effectively with the problem of gas warfare and that it was authorized to state that as soon as the powers represented at this Conference as well as other interested powers felt that it is opportune to take further steps in this matter the President of the United States will be glad to extend an invitation to such countries to designate their diplomatic representatives in Washington or such other representatives as they may desire with a view [to] agreeing upon the text of a convention with regard to the prohibition [of] the use of poison gas.

Such a suggestion made at the right moment could hardly be refused and if Department feels that it is desirable for the United States to keep the initiative which it took both at the Washington Conference and here with regard to poison gas the above action may be necessary.

Further, we would thereby avoid the embarrassment of making reservations as to attendance at a possible future conference which would probably be held under the auspices of the League.

Delegation appreciates that we are already a party to a treaty on this subject and that at the present time we might not desire to go further than we have already gone in that treaty. It further realizes that there may be other plans for a conference of a very much broader scope and that the above suggestion may not harmonize with such plans. However, it is felt that this suggestion should be clearly placed before the Department and as the report of the Military and Naval Committee may be considered at early meeting it is very important the instructions be received at the earliest possible moment. Consider it imperative that this or some equivalent action be taken so that our country may retain initiative and that course of our delegation be consistent with its original action in pressing this matter.

BURTON

500.A14/286 : Telegram

*The Secretary of State to the Chairman of the American Delegation
(Burton)*

[Paraphrase]

WASHINGTON, June 3, 1925—7 p. m.

50. Your 54, June 1, 11 a. m. I wholly agree that your course should be consistent with original action of delegation. As means of retaining initiative in matter which you have proposed and of offering substitute which would indicate no wavering from principle involved, I offer the suggestion that you propose resolution for adoption by Conference which could be inserted in any final act (should there be one) somewhat as follows:

"The Conference expresses hope that each of signatory and adhering powers will make appropriate endeavor to prohibit in their respective territories the export of any asphyxiating, poisonous or other gases intended or designed for use in connection with the operations of war."

On receipt by Conference of report of Military and Naval Committee, it would appear entirely appropriate, furthermore, for you to refer to article 5 of Washington treaty relating to use of noxious gases in warfare, and to point out that article 5 affords machinery necessary to give effect to proposed resolution in that any nonsignatory power may adhere to the treaty by communicating to this Government an instrument of adherence; this adherence by nonsignatory powers could be made to apply solely to provision regarding noxious gases.

In the belief, however, that it is very important to keep initiative of this matter in our hands, and that these proposals may not be sufficient, I shall consult the President tomorrow in regard to whether he will be willing to call a conference in event the other powers indicated willingness to attend. He might desire appropriation for expenses unless he should under present authorization of Congress call a further naval disarmament conference, when the other could be made a part of it as it was during the last one. I shall cable you after consultation with the President.

KELLOGG

500.A14/294 : Telegram

The Secretary of State to the Chairman of the American Delegation (Burton)

[Paraphrase]

WASHINGTON, June 4, 1925—[(?) p. m.]

51. Department's No. 50, June 3, 7 p. m., last paragraph. As result of my consultation with the President you are authorized, if in your opinion it is wise, to indicate that if powers represented at present Conference, as well as other interested powers, feel that moment is opportune to take further steps in this matter, the President will be glad to extend invitation as you suggest. As I indicated in telegram referred to above, if the President should call a further naval disarmament conference, he would probably make the other a part of it as was done last time.

KELLOGG

500.A14/294 : Telegram

The Chairman of the American Delegation (Burton) to the Secretary of State

GENEVA, June 4, 1925—noon.

[Received 2:40 p. m.]

60. Department's 50, June 3, 7 p. m. Resolution substantially identical with your proposed resolution prohibiting exportation of gas almost unanimously rejected in committee on the ground that Pacific Ocean [*sic*] placed nonproducing countries at a disadvantage and was technically impracticable. Suggestion of separate adherence to article 5 of Washington treaty also was criticized on the ground that treaty had not been ratified. Delegation does not regard the convening of a formal conference to deal with this subject as necessary

but refers to suggestion in [my] number 54,⁵⁷ that diplomatic representatives at Washington or such other representatives as countries might desire to send could meet with the Secretary of State on the call of the President. Form of convention might be taken almost bodily from Washington treaty. Should be glad to receive further instructions as soon as possible.⁵⁸

BURTON

500.A14/330 : Telegram

The Chairman of the American Delegation (Burton) to the Secretary of State

GENEVA, June 14, 1925—9 p. m.

[Received June 15—10:10 a. m.]

87. Your 63, June 13, 2 p. m.⁵⁹ Final review of text of treaty will take place tomorrow and Tuesday and effort will be made to sign on Wednesday. As time of signature will follow immediately after the end of the discussion I trust that Department will promptly authorize signature provided of course no new or objectionable features are introduced into the treaty and provided further that a reasonable number of powers are also prepared to sign.

As there has been a general disposition to meet our views on all the points of importance the delegation has raised I do not anticipate any unfavorable developments prior to signature.

I sincerely trust that your authorization may reach me by Tuesday June 16th.

I must say that our readiness to sign may have a decided influence upon the attitude of other delegations and that our failure to sign here and now, unless we had some good and sufficient reason for withholding signature, and I know of no such reason, would tend to place largely upon our delegation a rather heavy responsibility for what might perhaps be interpreted as an inconclusive termination of this conference. It is further to be recalled that on our insistence and with a view to securing our signature and facilitating eventual ratification the whole machinery of the convention itself has been separated from the control of the League of Nations.

Latest modifications in text and indication of new material are being telegraphed separately.⁶⁰

BURTON

⁵⁷ *Ante*, p. 55.

⁵⁸ No further action appears to have been taken.

⁵⁹ Not printed.

500.A14/380 : Telegram

*The Secretary of State to the Chairman of the American Delegation
(Burton)*

WASHINGTON, June 15, 1925—11 a.m.

64. The Department has received your telegrams through No. 87, June 14, 9 p. m., and, if in your judgment no new or objectionable features are introduced into the treaty prior to the time of signature, and provided that a reasonable number of powers including several of the principal arms producing nations are also prepared to sign, you are authorized to sign the convention. Report at earliest possible moment for press release both the hour of signature and who will sign for this Government, and send flash after signature.

KELLOGG

500.A14/386 : Telegram

*The Chairman of the American Delegation (Burton) to the Secretary
of State*

GENEVA, [June 17, 1925—(?) p.m.]

[Received June 17—10:30 a.m.]

90. Gibson and I signed convention, final act, protocol of signature and gas protocol at 12 noon. Did not sign final declaration.⁶⁰

BURTON

500.A14/355

*The Chairman of the American Delegation (Burton) to the Secretary
of State*

GENEVA, June 17, 1925.

[Received June 30.]

DEAR MR. SECRETARY: I am enclosing a writing signed by the three Delegates who did not join in the signature of the Treaties. This might assume considerable importance and I send it to you.

The Conference came to a close at three o'clock today and in reviewing what has been done, I think we have great reason for satisfaction in the results.

Very cordially yours,

THEODORE E. BURTON

⁶⁰ I. e., Declaration Regarding the Territory of Ifni; see footnote 63, p. 60.

[Enclosure]

*Statement Approving the Provisions of the Convention and
Consenting to Its Signature*

The undersigned Delegates, having examined the text of the Convention for the Control of the Trade in Arms, Ammunition and Implements of War, approve of its provisions and consent to the signing thereof by the Chairman and Vice-Chairman of the American Delegation.

A. T. LONG
A. W. DULLES
C. L'H. RUGGLES

GENEVA, June 17, 1925.

500.A14/379

The Minister in Switzerland (Gibson) to the Secretary of State

No. 471

BERNE, July 24, 1925.

[Received August 11.]

SIR: In compliance with the instructions contained in the Department's telegram No. 61, of July 17, 6 p. m.,⁶² I am transmitting, under separate cover, twenty copies of the various Acts signed at Geneva on June 17, 1925, at the conclusion of the Conference for the Control of the Traffic in Arms.⁶³ These additional documents, which have just been made available, are being transmitted by open mail.

I have [etc.]

HUGH GIBSON

⁶² Not printed.

⁶³ For texts of the convention and of the protocol concerning gases, see enclosures 1 and 2, *infra*. The Declaration Regarding the Territory of Ifni was not signed by the American delegates. The final act enumerated the instruments drawn up at the Conference and declared: (1) That the governments the delegates of which signed it "have the firm intention of applying strictly their internal laws and regulations to prevent anything that might constitute a fraudulent commerce in arms within the meaning of the said laws and regulations, and to exchange with such Parties as may be concerned all information material for this purpose"; (2) that the convention signed June 17, 1925, "must be considered as an important step towards a general system of international agreements regarding arms and ammunition and implements of war, and that it is desirable that the international aspect of the manufacture of such arms, ammunition and implements of war should receive early consideration by the different Governments." The protocol of signature provided that for the states enumerated in the preamble of the convention the period allowed for signature of the convention, the Declaration Regarding the Territory of Ifni, and the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, should be any date prior to Sept. 30, 1926.

[Enclosure 1⁶⁴]

*Convention for the Supervision of the International Trade in Arms and Ammunition and in Implements of War, Signed at Geneva, June 17, 1925*⁶⁵

GERMANY, the UNITED STATES OF AMERICA, AUSTRIA, BELGIUM, BRAZIL, the BRITISH EMPIRE, CANADA, the IRISH FREE STATE and INDIA, BULGARIA, CHILE, CHINA, COLOMBIA, DENMARK, EGYPT, SPAIN, ESTHONIA, ABYSSINIA, FINLAND, FRANCE, GREECE, HUNGARY, ITALY, JAPAN, LATVIA, LITHUANIA, LUXEMBURG, NICARAGUA, NORWAY, PANAMA, the NETHERLANDS, PERSIA, POLAND, PORTUGAL, ROUMANIA, SALVADOR, SIAM, SWEDEN, SWITZERLAND, the KINGDOM OF THE SERBS, CROATS AND SLOVENES, CZECHOSLOVAKIA, TURKEY, URUGUAY and VENEZUELA,

Whereas the international trade in arms and ammunition and in implements of war should be subjected to a general and effective system of supervision and publicity;

Whereas such a system is not provided by existing Treaties and Conventions;

Whereas in relation to certain areas of the world a special supervision of this trade is necessary in order to render more effective the measures adopted by the various Governments as regards both the import of such arms and ammunition and implements of war into these areas and their export therefrom; and

Whereas the export or import of arms, ammunition or implements, the use of which in war is prohibited by International Law, must not be permitted for such purpose;

Have decided to conclude a Convention and have accordingly appointed as their Plenipotentiaries:

[Here follow the names of the Plenipotentiaries.]⁶⁶

⁶⁴ A copy of the authentic final text of the convention, together with the annexes, has been here substituted for the copy enclosed with despatch No. 471. This text is printed in League of Nations, *Proceedings of the Conference for the Supervision of the International Trade in Arms*, transmitted to the Department with despatch No. 544, Sept. 18, 1925, by the Chargé in Switzerland (file No. 500.A14/403).

⁶⁵ In English and French; French text not printed. Consented to by the Senate, June 6, 1935, with the reservation that the convention should not come into effect for the United States until it had come into effect for Belgium, the British Empire, Czechoslovakia, France, Germany, Italy, Japan, Sweden, and the Union of Soviet Socialist Republics (*Congressional Record*, vol. 79, pt. 8, 74th Cong., 1st sess., pp. 8790-8796).

⁶⁶ Bracketed expression appears in the original. However, as not all of the delegates participating in the conference were empowered to sign the convention, and as the protocol of signature left to the states the right of appointing the plenipotentiaries they wished to have sign the convention, the Secretariat of the League of Nations adopted the expedient of leaving blank the space for the names of the plenipotentiaries until Sept. 30, 1926, the date when the period reserved for signature terminated (undated *note verbale* from the League of Nations Bureau, French Foreign Office, enclosed in despatch No. 5584 from the Embassy in France, Oct. 6, 1925, file No. 500.A14/409).

Who, having communicated their full powers, found in good and due form, HAVE AGREED AS FOLLOWS:

CHAPTER I.—*Categories*

ARTICLE 1

For the purposes of the present Convention, five Categories of arms, ammunition and implements are established:

CATEGORY I. ARMS, AMMUNITION AND IMPLEMENTS OF WAR EXCLUSIVELY DESIGNED AND INTENDED FOR LAND, SEA OR AERIAL WARFARE

A.—Arms, ammunition and implements exclusively designed and intended for land, sea or aerial warfare, which are or shall be comprised in the armament of the armed forces of any State, or which, if they have been but are no longer comprised in such armament, are capable of military to the exclusion of any other use, except such arms, ammunition and implements which, though included in the above definition, are covered by other Categories.

Such arms, ammunition and implements are comprised in the following twelve headings:

1. Rifles, muskets, carbines.
2. (a) Machine-guns, automatic rifles and machine-pistols of all calibres;
(b) Mountings for machine-guns;
(c) Interrupter gears.
3. Projectiles and ammunition for the arms enumerated in Nos. 1 and 2 above.
4. Gun-sighting apparatus including aerial gun-sights and bomb-sights, and fire-control apparatus.
5. (a) Cannon, long or short, and howitzers, of a calibre less than 5.9 inches (15 cm.);
(b) Cannon, long or short, and howitzers, of a calibre of 5.9 inches (15 cm.) or above;
(c) Mortars of all kinds;
(d) Gun carriages, mountings, recuperators, accessories for mountings.
6. Projectiles and ammunition for the arms enumerated in No. 5 above.
7. Apparatus for the discharge of bombs, torpedoes, depth charges and other kinds of projectiles.
8. (a) Grenades;
(b) Bombs;
(c) Land mines, submarine mines, fixed or floating, depth charges;
(d) Torpedoes.
9. Appliances for use with the above arms and apparatus.
10. Bayonets.
11. Tanks and armoured cars.
12. Arms and ammunition not specified in the above enumeration.

B.—Component parts, completely finished, of the articles covered by A above, if capable of being utilised only in the assembly or repair of the said articles, or as spare parts.

CATEGORY II. ARMS AND AMMUNITION CAPABLE OF USE BOTH FOR MILITARY AND OTHER PURPOSES

A.—1. Pistols and revolvers, automatic or self-loading, and developments of the same, designed for single-handed use or fired from the shoulder, of a calibre greater than 6.5 mm. and length of barrel greater than 10 cm.

2. Fire-arms designed, intended or adapted for non-military purposes, such as sport or personal defence, that will fire cartridges that can be fired from fire-arms in Category I; other rifled fire-arms firing from the shoulder, of a calibre of 6 mm. or above, not included in Category I, with the exception of rifled fire-arms with a “break-down” action.

3. Ammunition for the arms enumerated in the above two headings, with the exception of ammunition covered by Category I.

4. Swords and lances.

B.—Component parts, completely finished, of the articles covered by A above, if capable of being utilised only in the assembly or repair of the said articles, or as spare parts.

CATEGORY III. VESSELS OF WAR AND THEIR ARMAMENT

1. Vessels of war of all kinds.

2. Arms, ammunition and implements of war mounted on board vessels of war and forming part of their normal armament.

CATEGORY IV

1. Aircraft, assembled or dismantled.

2. Aircraft engines.

CATEGORY V

1. Gunpowder and explosives, except common black gunpowder.

2. Arms and ammunition other than those covered by Categories I and II, such as pistols and revolvers of all models, rifled weapons with a “break-down” action, other rifled fire-arms of a calibre of less than 6 mm. designed for firing from the shoulder, smooth-bore shot-guns, guns with more than one barrel of which at least one barrel is smooth-bore, fire-arms firing rimfire ammunition, muzzle-loading fire-arms.

CHAPTER II.—*Supervision and Publicity*

ARTICLE 2

The High Contracting Parties undertake not to export or permit the export of articles covered by Category I, except in accordance with the following conditions:

1. The export shall be for a direct supply to the Government of the importing State or, with the consent of such Government, to a public authority subordinate to it;

2. An order in writing, which shall be signed or endorsed by a representative of the importing Government duly authorised so to act, shall have been presented to the competent authorities of the exporting country. This order shall state that the articles to be exported are required for delivery to the importing Government or public authority as provided in paragraph 1.

ARTICLE 3

Nevertheless, export for supply to private persons may be permitted in the following cases:

1. Articles covered by Category I exported direct to a manufacturer of war material for use by him for the requirements of his industry, provided their import has been duly authorised by the Government of the importing country;

2. Rifles, muskets and carbines and their ammunition exported for supply to rifle associations formed for the encouragement of individual sport and duly authorised by their own Government to use them, the import of which is not contrary to any other provisions of the present Convention. Such arms and ammunition shall be sent direct to the Government of the importing country for transmission by such Government to the associations for which they are supplied.

3. Samples of articles covered by Category I exported for demonstration purposes direct to a trade representative of the exporting manufacturer, such representative being duly authorised by the Government of the importing country to receive them.

In the above-mentioned cases, an order in writing, endorsed by the Government of the importing country or by its representative duly authorised so to act, must have been presented to the authorities of the exporting country. It shall contain all the information necessary to show that the order is properly made under this Article.

ARTICLE 4

Permission to export under Articles 2 and 3 shall be signified by a licence. An export declaration, if filed with and approved by the competent authorities of the exporting country, may take the place of a licence.

Such licence or declaration must contain:

- (a) A description sufficient for the identification of the articles to which it relates, and giving their designation according to the headings in Category I, and their number or weight;
- (b) The name and address of the exporter;
- (c) The name and address of the importing consignee;
- (d) The name of the Government which has authorised the import.

Each separate consignment which crosses the frontier of the exporting country, whether by land, water or air, shall be accompanied by a document containing the particulars indicated above. This document may be either the licence or export declaration or a certified copy thereof or a certificate issued by the Customs authorities of the exporting country, stating that the consignment is exported under licence or export declaration in accordance with the provisions of the present Convention.

ARTICLE 5

The articles covered by Category II shall only be exported under cover of an export document, which may be either a licence issued by the competent authorities of the exporting country or an export declaration endorsed by or filed with them. If the legislation of the importing country requires the endorsement of a duly authorised representative of its Government, and if this fact has been notified by the said Government to the Government of the exporting country, then such an endorsement must have been obtained and submitted to the competent authorities of the exporting country before the export may take place.

Neither the licence nor the export declaration shall entail any responsibility upon the Government of the exporting country as to the destination or ultimate use of any consignment.

Nevertheless, if the High Contracting Parties consider, on account of the size, destination or other circumstances of a consignment, that the arms and ammunition consigned are intended for war purposes, they undertake to apply to such consignment the provisions of Articles 2, 3 and 4.

ARTICLE 6

As a preliminary to a general system of publicity for armaments irrespective of their origin, the High Contracting Parties undertake to publish, within two months of the close of each quarter, a statistical return of their foreign trade during this quarter in the articles covered by Categories I and II. This return shall be drawn up in accordance with the specimen forms contained in Annex I to the

present Convention and shall show under each heading appearing in Categories I and II in Article 1 the value and the weight or number of the articles exported or imported under a licence or export declaration, allocated according to country of origin or destination.

In all cases where the consignment comes from, or is sent to, a territory possessing an autonomous Customs system, such territory shall be shown as the country of origin or destination.

The High Contracting Parties further undertake, so far as each may be concerned, to publish within the same time-limits a return containing the same information in respect of the consignments of articles covered by Categories I and II to other territories placed under their sovereignty, jurisdiction, protection or tutelage, or under the same sovereignty, jurisdiction, protection or tutelage.

The first statistical return to be published by each of the High Contracting Parties shall be for the quarter beginning on the first day of January, April, July or October, subsequent to the date on which the present Convention comes into force with regard to the High Contracting Party concerned.

The High Contracting Parties undertake to publish as an annex to the above-mentioned return the text of the provisions of all statutes, orders or regulations in force within their territory dealing with the export and import of articles covered by Article 1, and to include therein all provisions enacted for the purpose of carrying out the present Convention. Amendments and additions to these provisions shall be likewise published in annexes to subsequent quarterly returns.

ARTICLE 7

The High Contracting Parties, in all cases covered by Category III, undertake to publish within two months of the close of each quarter a return for that quarter, giving the information detailed below for each vessel of war constructed, in course of construction or to be constructed within their territorial jurisdiction on behalf of the Government of another State:

(a) The date of the signing of the contract for the construction of the vessel, the name of the Government for which the vessel is ordered, together with the following data:

Standard displacement in tons and metric tons;

The principal dimensions, namely: length at water-line, extreme beam at or below water-line, mean draft at standard displacement;

(b) The date of laying the keel, the name of the Government for which the vessel is being constructed, together with the following data:

Standard displacement in tons and metric tons;

The principal dimensions, namely: length at water-line, extreme beam at or below water-line, mean draft at standard displacement;

(c) The date of delivery, the name of the Government to which the vessel is delivered, together with the following data with respect to the vessel at that date:

Standard displacement in tons and metric tons;

The principal dimensions, namely: length at water-line, extreme beam at or below water-line, mean draft at standard displacement;

As well as the following information regarding the armament installed on board the vessel at the date of delivery and forming part of the vessel's normal armament:

Number and calibre of guns;

Number and calibre of torpedo-tubes;

Number of bomb-throwers;

Number of machine-guns.

The above information concerning the armament of the vessel shall be furnished by means of a statement signed by the shipbuilder and countersigned by the commanding officer or such other representative fully authorised for the purpose by the Government of the State to whom the vessel is delivered. Such statement shall be transmitted to the competent authority of the Government of the constructing country.

Whenever a vessel of war belonging to one of the High Contracting Parties is transferred, whether by gift, sale or other mode of transfer, to the Government of another State, the transferor undertakes to publish within two months of the close of the quarter within which the transfer is effected the following information:

The date of transfer, the name of the Government to whom the vessel has been transferred and the data and information referred to in paragraph (c) above.

By the standard displacement in the present Article is to be understood the displacement of the vessel complete, fully manned, engined and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed-water on board.

ARTICLE 8

Without prejudice to the provisions of Article 7, if the transport of any vessel of war is carried out otherwise than by such vessel's own motive power or towage, the vessel, whether assembled or in component parts, and the armament thereof will become subject also to the provisions of this Convention as if they were included in Category I.

ARTICLE 9

The High Contracting Parties undertake to publish, within six months of the close of each quarter, a return for that quarter of the export of aircraft and aircraft engines, giving quantities exported and their allocation according to country of destination.

ARTICLE 10

Subject to the provisions of Chapter III, the articles covered by Categories IV and V may be exported without formalities or restrictions.

ARTICLE 11

The High Contracting Parties undertake not to apply a more favourable regime to imports of articles referred to in Article 1 coming from territories of non-contracting States than that which they will apply to such imports coming from territories of contracting States, and to subject these imports, of whatever origin, to the same conditions of authorisation and, so far as possible, of publicity.

CHAPTER III.—*Special Zones*

ARTICLE 12

The High Contracting Parties agree that the provisions of this Chapter apply to the territorial and maritime zones hereinafter defined and referred to in the present Convention as the "special zones".

1. *Land zone.*

(a) The whole of the continent of Africa, with the exception of Egypt, Lybia, Tunisia, Algeria, the Spanish possessions in North Africa, Abyssinia, and of the Union of South Africa together with the territory under its mandate, and of Southern Rhodesia.

This zone also includes the adjacent islands which are situated within 100 marine miles from the coast thereof and also Prince's Island (Príncipe) in the Bight of Biafra, St. Thomas (São Thomé), Annobon and Socotra, but does not include the Spanish islands situated to the north of the parallel of 26° North latitude.

(b) The Arabian peninsula, Gwadar, Syria and Lebanon, Palestine and Transjordan, and Iraq.

2. *Maritime zone.*

A maritime zone, which includes the Red Sea, the Gulf of Aden, the Persian Gulf and the Gulf of Oman and is bounded by a line drawn from and following the latitude of Cape Guardafui to the point of intersection with longitude 57° East of Greenwich and proceeding thence direct to the point at which the eastern frontier of Gwadar meets the sea.

ARTICLE 13

The High Contracting Parties undertake not to export or to permit articles covered by Categories I, II, IV and V to be exported to places within the special zones, unless a licence has been issued in conformity with the conditions defined in Article 14.

An export declaration, if filed with and approved by the competent authorities of the exporting country, may take the place of a licence.

The High Contracting Parties also undertake, each in respect of any territory under its sovereignty, jurisdiction, protection or tutelage situated within the special zones, not to permit articles covered by the Categories above mentioned to be imported into such territory unless their import has been authorised by the authorities of the territory concerned. Such articles shall only be admitted into territory within the special zones at such ports or other places as the authorities of the State, colony, protectorate or mandated territory concerned shall designate for this purpose.

ARTICLE 14

The High Contracting Parties undertake not to issue the export licences nor to approve the export declarations required under Article 13 unless they are satisfied that the conditions stated in paragraph (a) or (b) hereof are fulfilled and also, as regards articles covered by Categories I and II, the conditions laid down in Articles 2, 3, 4 and 5.

(a) That, if an export is being made to territory under the sovereignty, jurisdiction, protection or tutelage of a High Contracting Party, articles covered by Categories I, II and IV to which the licence or export declaration applies are required for lawful purposes and that the authorities of the territory to which they are consigned are willing to admit them; and that, in the case of articles covered by Category V, a copy of the licence or export declaration has been sent to the authorities aforesaid before the export takes place.

(b) That, if an export is being made to territory which is not under the sovereignty, jurisdiction, protection or tutelage of a High Contracting Party, articles covered by Categories I, II, IV and V are required for lawful purposes.

ARTICLE 15

The High Contracting Parties undertake to publish, in addition to the returns provided for in Article 6 and Article 9 in respect of articles covered by Categories I, II and IV, a return of articles covered by Category V exported to territory situated within the special zones. This return shall be published within the same time-limits

and at the same intervals as those provided in the first paragraph of Article 6, and shall contain, as far as possible, the same particulars.

ARTICLE 16

The trade in articles covered by Categories I, II, IV and V within the special zones shall be placed under the supervision of officials of the authorities of the State, colony, protectorate or mandated territory concerned.

The admission and transit of and trade in such articles within the said zones shall also be subject to the provisions of Section I, §§ 1 and 2, of Annex II of the present Convention, to which provisions the High Contracting Parties undertake to conform.

An authorisation must be given by a duly authorised representative of the authorities aforesaid in each case before any such articles may be reconsigned to any place outside the territory to which they have been admitted.

ARTICLE 17

The manufacture, assembly and repair within the special zones of articles covered by Categories I, II, IV and V shall be subject to the provisions of Section I, § 3, of Annex II of the present Convention, to which provisions the High Contracting Parties undertake to conform.

ARTICLE 18

The High Contracting Parties undertake, each in respect of any territory under its sovereignty, jurisdiction, protection or tutelage situated within the special zones, not to permit the transit by land across such territory of articles covered by Categories I, II, IV and V when their destination is another territory also situated in the special zones, unless their transport to their destination is assured and the authorities of the latter territory have authorised their import.

The prohibition referred to in the above paragraph shall not apply to the transit of such articles through a territory situated in the special zones when their destination is territory of one of the High Contracting Parties not included in the said zones, provided that their transport to their destination is assured.

If, for the purposes of transport to a territory situated within the special zones, it is necessary to pass through a contiguous territory likewise situated within the said zones, the transit shall be permitted, subject always to the conditions laid down in the first paragraph hereof, at the request of the authorities of the importing territory, provided that such authorities guarantee that the articles in respect of which the request is made shall not at any time be sold, or other-

wise transferred, contrary to the provisions of the present Convention. Nevertheless, if the attitude or the disturbed condition of the importing State constitutes a threat to peace or public order, permission for transit shall be refused to such State by the authorities of all such contiguous territories until this threat has ceased to exist.

ARTICLE 19

Subject to any contrary provisions in existing special agreements or in any future agreements, provided that in all cases such agreements otherwise comply with the provisions of the present Convention, the High Contracting Parties agree that in the special zones the authorities of the State, colony, protectorate or mandated territory concerned shall carry out within their territorial waters the supervision and police measures necessary for the application of the present Convention.

ARTICLE 20

The High Contracting Parties agree that within the special zones no native vessel, as hereinafter defined, of less than 500 tons (net tonnage) shall be allowed to ship, discharge or tranship articles covered by Categories I, II, IV and V.

A vessel shall be deemed to be a native vessel if she is either owned, fitted out or commanded by a native of any country bordering on the Indian Ocean west of the meridian of 95° East of Greenwich and north of the parallel of 11° South latitude, the Red Sea, the Persian Gulf, or the Gulf of Oman, or if at least one-half of the crew are natives of such countries.

The provisions of paragraph 1 hereof do not apply to lighters or barges or to vessels engaged exclusively in the coasting trade between different ports of the same State, colony, protectorate or mandated territory where warehouses are situated. The conditions under which articles covered by Categories I, II, IV and V may be carried by such vessels are laid down in § 1 of Section II of Annex II of the present Convention, to which the High Contracting Parties undertake to conform.

The provisions of this Article and of Section II, § 1, of Annex II do not apply:

(a) To arms, ammunition or implements carried on behalf of a Government either under an authorisation or accompanied by a duly authorised official of such Government; or

(b) To arms and ammunition in the possession of persons provided with a licence to carry arms on the condition that such arms are for the personal use of the bearer and are accurately described in such licence.

ARTICLE 21

The High Contracting Parties agree that, with the object of preventing all illicit conveyance within the special zones of articles covered by Categories I, II, IV and V, all native vessels within the meaning of Article 20 must carry a manifest of their cargo or a similar document specifying the quantities and nature of the goods on board, their origin and destination. This manifest shall remain covered by the secrecy to which it is entitled by the law of the State to which the vessel belongs, and must not be examined during proceedings for the verification of the flag, unless the interested party consents thereto.

The provisions of this Article shall not apply to:

(a) Vessels exclusively engaged in the coasting trade between different ports of the same State, colony, protectorate or mandated territory; or

(b) Vessels engaged in carrying arms, ammunition and implements on behalf of a Government under the conditions defined in Article 20 (a) and proceeding to or from any point within the said zones; or

(c) Vessels only partially decked, having a maximum crew of ten men, and exclusively employed in fishing within territorial waters.

ARTICLE 22

The High Contracting Parties agree that no authorisation to fly the flag of any of such High Contracting Parties shall be granted to native vessels of less than 500 tons (net tonnage) as defined in Article 20, except in accordance with the conditions prescribed in Section II, §§ 3 and 4, of Annex II of the present Convention. Such authorisation, which shall be in writing, shall be renewed every year and shall contain the particulars necessary to identify the vessel, the name, tonnage, type of rigging, principal dimensions, registered number and signal letters if any. It shall bear the date on which it was granted and the status of the official who granted it.

ARTICLE 23

The High Contracting Parties agree to communicate to any other High Contracting Party who so requests the forms of the documents to be issued by them under Articles 20 (a), 21 and 22 and Section II, § 1, of Annex II of the present Convention.

The High Contracting Parties further agree to take all necessary measures to ensure that the following documents shall be supplied as soon as possible to any other High Contracting Party who has requested the same:

- (a) Certified copies of all authorisations to fly the flag granted under the provisions of Article 22;
- (b) Notice of the withdrawal of such authorisations;
- (c) Copies of authorisations issued under Section II, § 1, of Annex II.

ARTICLE 24

The High Contracting Parties agree to apply in the maritime zone the regulations laid down in Annex II, Section II, § 5, of the present Convention.

ARTICLE 25

The High Contracting Parties agree that any illicit conveyance or attempted conveyance legally established against the captain or owner of a vessel authorised to fly the flag of one of the High Contracting Parties, or holding the licence provided for in Section II, § 1, of Annex II, of the present Convention, shall entail the immediate withdrawal of the said authorisation or licence.

ARTICLE 26

The High Contracting Parties who have under their sovereignty, jurisdiction, protection or tutelage territory situated within the special zones, undertake, so far as each is concerned, to take the necessary measures to ensure the application of the present Convention and, in particular, the prosecution and punishment of offences against the provisions thereof, and to appoint the territorial and consular officers or competent special representatives for the purpose.

They will communicate these measures to such High Contracting Parties as shall have expressed the desire to be informed thereof.

ARTICLE 27

The High Contracting Parties agree that the provisions of Articles 16 to 26 inclusive and of Annex II of the present Convention establishing a certain regime of supervision in the special zones shall not be interpreted, as regards such High Contracting Parties as have no territory under their sovereignty, jurisdiction, protection or tutelage within or immediately adjacent to the said special zones, either as constituting an obligation to apply the regime defined in the above-mentioned provisions or as involving their responsibility with respect to the application of this regime.

However, the said High Contracting Parties shall conform to the provisions of Articles 22, 23 and 25, which relate to the conditions under which native vessels under 500 tons (net tonnage) may be authorised to fly the flag of such High Contracting Parties.

CHAPTER IV.—*Special Provisions*

ARTICLE 28

Abyssinia, desirous of rendering as effective as possible the supervision of the trade in arms and ammunition and in implements of war, which is the subject of the present Convention, hereby undertakes, in the free exercise of her sovereign rights, to put into force, so far as concerns her own territory, all regulations which may be necessary to fulfil the provisions of Articles 12 to 18 inclusive of the said Convention relating to exports, imports and the transport of arms, ammunition and implements of war.

The High Contracting Parties take note of the above undertaking, and, being in full sympathy with the desire of Abyssinia to render as effective as possible the supervision of the trade in arms and ammunition and in implements of war, hereby undertake to conform to the provisions of the above-mentioned Articles so far as concerns Abyssinian territory, and to respect the regulations put into force, in accordance with the said undertaking, by Abyssinia as a sovereign State.

If a State, at present included in the special zones, should at the moment of its accession to the present Convention assume with respect to its own territory the same undertakings as those set forth in the first paragraph of this Article, and also, when such State possesses a sea-coast, those contained in Articles 19 to 26 inclusive in so far as the same are applicable, the High Contracting Parties hereby declare that they will consider such State as excluded from the said zones from the date that its accession becomes effective as specified in Article 41 and that they will accept as regards such State the obligations set forth in the second paragraph of the present Article, and also, when the State excluded possesses a sea-coast, the obligations of Articles 19 to 27 inclusive in so far as they are applicable.

ARTICLE 29

The High Contracting Parties agree to accept reservations which may be made by Esthonia, Finland, Latvia, Poland and Roumania at the moment of their signature of the present Convention and which shall suspend in respect of these States, until the accession of Russia to the present Convention, the application of Articles 6 and 9, as regards both export to and import into these countries by the High Contracting Parties. These reservations shall not be interpreted as preventing the publication of statistics in accordance with the laws and regulations in effect within the territory of any High Contracting Party.

ARTICLE 30

The High Contracting Parties who possess extra-territorial jurisdiction in the territory of another State party to the present Convention undertake in cases where the rules of this Convention cannot be enforced by the local courts as regards their nationals in such territory to prohibit all action by such nationals contrary to the provisions of the present Convention.

CHAPTER V.—*General Provisions*

ARTICLE 31

The provisions of the present Convention are completed by those of Annexes I and II which have the same value and shall enter into force at the same time as the Convention itself.

ARTICLE 32

The High Contracting Parties agree that the provisions of the present Convention do not apply:

(a) To arms or ammunition or to implements of war forwarded from territory under the sovereignty, jurisdiction, protection or tutelage of a High Contracting Party for the use of the armed forces of such High Contracting Party, wherever situated, nor

(b) To arms or ammunition carried by individual members of such forces or by other persons in the service of a High Contracting Party and required by them by reason of their calling, nor

(c) To rifles, muskets, carbines and the necessary ammunition therefor, carried by members of rifle clubs for the sole purpose of individual use in international competitions in marksmanship.

ARTICLE 33

In time of war, and without prejudice to the rules of neutrality, the provisions of Chapter II shall be suspended from operation until the restoration of peace so far as concerns any consignment of arms or ammunition or of implements of war to or on behalf of a belligerent.

ARTICLE 34

All the provisions of general international Conventions anterior to the date of the present Convention, such as the Convention for the Control of the Trade in Arms and Ammunition and the Protocol signed at St. Germain-en-Laye on September 10th, 1919, shall be considered as abrogated in so far as they relate to the matters dealt with in the present Convention and are binding between the Powers which are Parties to the present Convention.

The present Convention shall not be deemed to affect any rights and obligations which may arise out of the provisions either of the Covenant of the League of Nations or of the Treaties of Peace signed in 1919 and 1920 at Versailles, Neuilly, St. Germain and Trianon, or of the Treaty Limiting Naval Armaments signed at Washington on February 6th, 1922, or of any other treaty, convention, agreement or engagement concerning prohibition of import, export or transit of arms or ammunition or of implements of war; nor, without prejudice to the provisions of the present Convention itself, shall it affect any other treaty, convention, agreement or engagement other than those referred to in paragraph 1 of the present Article having as its object the supervision of import, export or transit of arms or ammunition or of implements of war.

ARTICLE 35

The High Contracting Parties agree that disputes arising between them relating to the interpretation or application of this Convention shall, if they cannot be settled by direct negotiation, be referred for decision to the Permanent Court of International Justice. In case either or both of the States to such a dispute should not be parties to the Protocol of December 16th, 1920, relating to the Permanent Court of International Justice, the dispute shall be referred, at the choice of the Parties and in accordance with the constitutional procedure of each State, either to the Permanent Court of International Justice or to a court of arbitration constituted in accordance with the Hague Convention of October 18th, 1907, or to some other court of arbitration.

ARTICLE 36

Any High Contracting Party may declare that its signature or ratification or accession does not, as regards the application of the provisions of Chapter II and of Articles 13, 14 and 15 of the present Convention, bind either all or any one of the territories subject to its sovereignty, jurisdiction or protection, provided that such territories are not situated in the special zones as defined in Article 12.

Any High Contracting Party which has made such a declaration may, subsequently, and in conformity with the provisions of Article 37, adhere entirely to the present Convention for any territories so excluded. Such High Contracting Party will use its best endeavours to ensure as soon as possible the accession of any territories so excluded.

Any High Contracting Party may also, as regards the application of the provisions of Chapter II and of Articles 13, 14 and 15 of the present Convention, and in conformity with the procedure laid down

in Article 38, denounce the present Convention separately in respect of any territory referred to above.

Any High Contracting Party which shall have availed itself of the option of exclusion or of denunciation provided for in the preceding paragraphs undertakes to apply the provisions of Chapter II to consignments destined for territories in respect of which the option has been exercised.

ARTICLE 37

The High Contracting Parties will use their best endeavours to secure the accession to the present Convention of other States.

Each accession will be notified to the Government of the French Republic and by the latter to all the signatory or acceding States.

The instruments of accession shall remain deposited in the archives of the Government of the French Republic.

ARTICLE 38

The present Convention may be denounced by any High Contracting Party thereto after the expiration of four years from the date when it came into force in respect of that Party. Denunciation shall be effected by notification in writing addressed to the Government of the French Republic, which will forthwith transmit copies of such notification to the other Contracting Parties, informing them of the date on which it was received.

A denunciation shall take effect one year after the date of the receipt of the notification thereof by the Government of the French Republic and shall operate only in respect of the notifying State.

In case a denunciation has the effect of reducing the number of States parties to the Convention below fourteen, any of the remaining High Contracting Parties may also, within a period of one year from the date of such denunciation, denounce the Convention without waiting for the expiration of the period of four years mentioned above and may require that its denunciation shall take effect at the same date as the first-mentioned denunciation.

ARTICLE 39

The High Contracting Parties agree that, at the conclusion of a period of three years from the coming into force of the present Convention under the terms of Article 41, this Convention shall be subject to revision upon the request of one-third of the said High Contracting Parties addressed to the Government of the French Republic.

ARTICLE 40

The present Convention, of which the French and English texts are both authentic, is subject to ratification. It shall bear to-day's date.

Each Power shall address its ratification to the Government of the French Republic, which will at once notify the deposit of ratification to each of the other signatory Powers.

The instruments of ratification will remain deposited in the archives of the Government of the French Republic.

ARTICLE 41

A first proces-verbal of the deposit of ratifications will be drawn up by the Government of the French Republic as soon as the present Convention shall have been ratified by fourteen Powers.

The Convention shall come into force four months after the date of the notification of this proces-verbal by the Government of the French Republic to all signatory Powers.

Subsequently, the Convention will come into force in respect of each High Contracting Party four months after the date on which its ratification or accession shall have been notified by the Government of the French Republic to all signatory or acceding States.

IN WITNESS WHEREOF, the above-mentioned Plenipotentiaries have signed the present Convention.

DONE at Geneva, in a single copy, this seventeenth day of June, One Thousand Nine Hundred and Twenty-Five.

For Germany

H. VON ECKARDT

For the United States of America

THEODORE E. BURTON

HUGH S. GIBSON

For Austria

E. PFLÜGL

For Belgium

For Brazil

CONTRE-AMIRAL A. C. DE SOUZA E SILVA

MAJOR ESTEVAO LEITÃO DE CARVALHO

Brazil reserves the right, during the whole period of application of the present Convention, to execute it, in so far as she is concerned, in accordance with the spirit of the clauses which aim at rendering the supervision general both as regards the trade in and the manufacture of armaments.⁶⁷

⁶⁷ All reservations, except that of Great Britain, are in French only. The translations here used appear as footnotes in *Proceedings of the Conference*.

For the British Empire

I declare that my signature does not bind India or any British Dominion which is a separate Member of the League of Nations and does not separately sign or adhere to the Convention.

ONSLow

*For Canada**For the Irish Free State**For India*

P. Z. COX

*For Bulgaria**For Chile*

GÉNÉRAL DE DIVISION LUIS CABRERA

*For China**For Colombia**For Denmark**For Egypt**For Spain*

EMILIO DE PALACIOS

For Esthonia

Subject to the suspension of the application of Articles 6 and 9 in virtue of the right accorded to Esthonia by Article 29.

J. LAIDONER

For Abyssinia

GUÉTATCHOU

BLATA HEROUY HEROUY

A. TASFAE

For Finland

Subject to the suspension of the application of Articles 6 and 9 in virtue of the right accorded to Finland by Article 29.

O. ENCKELL

For France

B. CLAUZEL

*For Greece**For Hungary*

DR. BARANYAI ZOLTÁN

For Italy

PIETRO CHIMIENTI

ALBERTO DE MARINIS-STENDARDO

For Japan

M. MATSUDA

For Latvia

Subject to the suspension of the application of Articles 6 and 9 in virtue of the right accorded to Latvia by Article 29.

COLONEL HARTMANIS

*For Lithuania**For Luxemburg*

CH. G. VERMAIRE

*For Nicaragua**For Norway**For Panama**For the Netherlands**For Persia**For Poland*

Subject to the suspension of the application of Articles 6 and 9 in virtue of the right accorded to Poland by Article 29.

GÉNÉRAL CASIMIR SOSNKOWSKI

G. D. MORAWSKI

*For Portugal**For Roumania*

Ad referendum subject to the reservation provided for in Article 29 of the Convention to the effect that the application of Articles 6 and 9 as regards both export to and import into Roumania by the High Contracting Parties shall be suspended until the adhesion of Russia to the present Convention and to its Annexes.

N. P. COMNENE

GÉNÉRAL T. DUMITRESCU

For Salvador

J. GUSTAVO GUERRERO

For Siam

For Sweden

For Switzerland

For the Kingdom of the Serbs, Croats and Slovenes

J. DOUTCHITCH

GÉNÉRAL KALAFATOVITCH

CAPT. D. FRÉG. MARIASEVITCH

For Czechoslovakia

DR. VEVERKA, FERDINAND

For Turkey

For Uruguay

For Venezuela

ANNEX I

STATISTICAL FORMS

FORM I

Imports ¹ into (name of importing country) during the
..... quarter of 19..

Description ¹ of arms and am- munition and implements of war according to the headings in attached sched- ule.	Countries of Origin						Total		
	A ²				Z ³				
	No. of articles	Weight	De- clared value ⁴		No. of articles	Weight	De- clared value ⁴	No. of articles	Weight	De- clared value ^{4}
Totals									

EXPLANATORY NOTES

¹ The imports included in this table shall be the general imports of arms and ammunition and of implements of war set out in the attached schedule, arriving from abroad, i. e., the total of the goods imported for home consumption, into warehouse, free zones, free ports and all other places excluded from the Customs territory, also temporary imports, improvement trade, etc., but excluding goods for transit or transhipment.

When temporary warehousing pending transit or transhipment is permitted, arms and ammunition and implements of war arriving under these conditions shall not be considered as imports, provided that the consignments are accompanied by a licence or similar document mentioned in Article 4 of the present Convention showing some other country as destination.

² Arms and ammunition and implements of war covered by Category I shall be tabled separately from those in Category II.

³ Name of country which issued the licence or similar document mentioned in Article 4 of the present Convention. But when the goods come from a Colony or Dependency, not issuing licences in its own name, but having an autonomous Customs system, such colony or dependency shall be shown as the country of origin.

⁴ In legal currency of the importing country. In cases where the values are the result of conversion on a gold standard basis, this fact should be expressly mentioned in the heading of this column. In all cases the value shall be shown, except in the case of samples referred to in Article 3, paragraph 3, of the Convention when it is not obligatory.

FORM II

Exports and Re-exports¹ from (name of exporting country) during the quarter of 19..

Description ¹ of arms and am- munition and implements of war according to the headings in attached sched- ule.	Countries of Destination						Total		
	A ²				Z ³				
	No. of articles	Weight	De- clared value ⁴		No. of articles	Weight	De- clared value ⁴	No. of articles	Weight	De- clared value^{4}
Totals-----									

EXPLANATORY NOTES

¹ The exports and re-exports included in this table shall be the general exports and re-exports of arms and ammunition and implements of war set out in the attached schedule leaving for abroad, i. e., the total of the goods exported and re-exported from the internal market from warehouse, free zones, free ports and all other places excluded from the Customs territory, also temporary exports and re-exports, improvement trade, etc., but excluding goods for transit or transshipment.

When temporary warehousing pending transit or transshipment is permitted, the arms and ammunition and implements of war arriving under these conditions shall not be considered as imports provided that the consignments are accompanied by a licence or similar document mentioned in Article 4 of the present Convention showing some other country as destination.

² Arms and ammunition and implements of war covered by Category I shall be tabled separately from those in Category II.

³ Country in whose favour the licence or similar document mentioned in Article 4 of the present Convention has been issued. In the case of an application by a mother-country on behalf of a Colony or Dependency having an autonomous Customs regime, such Colony or Dependency should be shown as country of destination.

⁴ In legal currency of the exporting country. In cases where the values are the result of conversion on a gold standard basis, this fact should be expressly mentioned in the title of this column. In all cases value shall be shown, except in the case of samples referred to in Article 3, paragraph 3, of the Convention when it is not obligatory.

SCHEDULE

CATEGORY I. ARMS, AMMUNITION AND IMPLEMENTS OF WAR EXCLUSIVELY
DESIGNED AND INTENDED FOR LAND, SEA OR AERIAL WARFARE

Arms and ammunition and implements exclusively designed and intended for land, sea or aerial warfare, which are, or shall be, comprised in the armament of the armed forces of any State, or which, if they have been, are no longer comprised in such armament but are capable of military to the exclusion of any other use, except such arms, ammunition and implements which, though included in the above definition, are covered in other categories.

Such arms, ammunition and implements are comprised in the following twelve headings:

1. Rifles, muskets, carbines (number).
2. (a) Machine-guns, automatic rifles and machine-pistols of all calibres (number);
(b) Mountings for machine-guns (number);
(c) Interrupter gears (number).
3. Projectiles and ammunition for the arms enumerated in Nos. 1 and 2 above (number).
4. Gun-sighting apparatus including aerial gun-sights and bomb-sights, and fire-control apparatus (number).

5. (a) Cannon, long or short, and howitzers, of a calibre less than 5.9 inches (15 cm.) (number);
- (b) Cannon, long or short, and howitzers, of a calibre of 5.9 inches (15 cm.) or above (number);
- (c) Mortars of all kinds (number);
- (d) Gun carriages (number), mountings (number), recuperators (number), accessories for mountings (weight).
6. Projectiles and ammunition for the arms enumerated in No. 5 above (number).
7. Apparatus for the discharge of bombs, torpedoes, depth charges and other kinds of projectiles (number).
8. (a) Grenades (number);
- (b) Bombs (number);
- (c) Land mines, submarine mines, fixed or floating, depth charges (number);
- (d) Torpedoes (number).
9. Appliances for use with the above arms and apparatus (number).
10. Bayonets (number).
11. Tanks and armoured cars (number).
12. Arms and ammunition not specified in the above enumeration (number or weight).

Component parts, completely finished, of the articles covered by the above headings, if capable of being utilised only in the assembly or repair of the said articles, or as spare parts, should be entered separately, by weight, under each of the above headings or sub-headings to which they belong.

CATEGORY II. ARMS AND AMMUNITION CAPABLE OF USE BOTH FOR MILITARY AND OTHER PURPOSES

1. Pistols and revolvers, automatic or self-loading, and developments of the same, designed for single-handed use or fired from the shoulder, of a calibre greater than 6.5 mm. and length of barrel greater than 10 cm. (number).

2. Fire-arms designed, intended or adapted for non-military purposes, such as sport or personal defence, that will fire cartridges that can be fired from fire-arms in Category I. Other rifled fire-arms, firing from the shoulder of a calibre of 6 mm. or above not included in Category I, with the exception of rifled fire-arms with a "break-down" action (number).

3. Ammunition for the arms enumerated in the above two headings, with the exception of ammunition covered by Category I (number).

4. Swords and lances (number).

Component parts, completely finished, of the articles covered by the above headings, if capable of being utilised only in the assembly or repair of the said articles, or as spare parts, should be entered sep-

arately, by weight, under each of the above headings or sub-headings to which they belong.

ANNEX II

SUPERVISION WITHIN THE SPECIAL ZONES

SECTION I. *Supervision on Land*

§ 1

All articles covered by Categories I, II, IV and V admitted into the territory of a State, colony, protectorate or mandated territory situated in the special zones, except such articles imported by individuals for their personal use under an authorisation issued by the authorities of the territory concerned, shall be deposited by the importer at his own expense and risk in a public warehouse maintained under the exclusive custody and permanent supervision of the authorities aforesaid or their officials, of whom at least one must be a member of their armed forces, and who shall keep an official record of such deposit.

Every withdrawal from a public warehouse must be authorised beforehand by such authorities. No such authorisation shall be given except for the purposes of transfer to another public warehouse or to a private warehouse duly approved by the said authorities or for delivery to individuals who have proved to the satisfaction of the said authorities that the articles are necessary to them for their personal use.

Articles required for the equipment of the national forces or for the defence of the territory are exempted from all formalities in connection with deposit in or withdrawal from a public warehouse.

§ 2

No private warehouse for articles covered by Categories I, II, IV and V shall be allowed within the special zones unless authorised by the authorities of the State, colony, protectorate or mandated territory. Such warehouse must consist of enclosed premises, reserved for that purpose and having only one entry, which must be fitted with two locks, one of which can be opened only by officials of the authorities.

The person in charge of the warehouse shall be responsible for all such articles deposited therein and must account for them on demand by the authorities.

Such articles must not be withdrawn from the warehouse nor be transported or transferred, without a special authorisation. The particulars entered on such authorisations shall be noted in a special register numbered and initialled.

Every arm imported under the provisions of § 1 by an individual for his personal use or transferred under the provisions of the same § from a public warehouse to a private warehouse or a private individual must be registered. A mark shall be stamped thereon if it does not already bear another mark or a number sufficient for identification. The mark or number shall be noted in the licence to carry arms issued by the authorities.

§ 3

The manufacture or assembly within the special zones of articles covered by Categories I, II, IV and V is prohibited otherwise than in establishments instituted for the defence of the territory or maintenance of public order by the authorities of the territory concerned, or in the case of mandated territory by such authorities under the supervision of the mandatory Power.

The repair of such articles shall only be carried out in establishments instituted by the authorities or in private establishments which shall have been authorised for this purpose by the said authorities. Such authorisation shall not be granted without guarantees for the observance of the rules of the present Convention.

SECTION II. *Maritime Supervision*

§ 1

Cargoes of articles covered by Categories I, II, IV and V shipped on board the lighters, barges or coasting vessels referred to in Article 20, paragraph 3, must be covered by a special licence issued by the authorities of the State, colony, protectorate or mandated territory in which such cargoes are shipped, and containing the particulars specified in § 2 hereof. All articles so shipped shall in addition be subject to the provisions of the present Convention.

§ 2

Special licences referred to in § 1 of Section II of the present Annex shall contain the following particulars:

- (a) A statement of the nature and quantity of the articles in respect of which the licence is issued.
- (b) The name of the vessel on which the cargoes are to be shipped.
- (c) The name of the ultimate consignee.
- (d) The ports of loading and discharge.

It shall be certified on such licences that they have been issued in conformity with the provisions of the present Convention.

§ 3

An authorisation to fly the flag of a High Contracting Party may only be granted by the authorities mentioned in paragraph (b) below, and subject to the three following conditions:

(a) The owners must be nationals of the Power whose flag they claim to fly or companies who are nationals under the laws of that Power.

(b) The owners must have furnished proof that they are *bona fide* owners of real estate in the territory of the authorities to whom the application for a licence is addressed, or have given to such authorities sufficient guarantees for the payment of any fines to which they may become liable.

(c) The owners and the captain of the vessel must have furnished proof that they enjoy a good reputation and, in particular, that they have never been convicted of illicit conveyance of arms or ammunition or implements of war.

§ 4

All native vessels before they are authorised to fly the flag of a High Contracting Party shall have complied with the following regulations for the purpose of their identification at sea:

(a) The initial letters of the port of registration of the native vessel, followed by the vessel's registration number in the serial port numbers, must be incised and painted in white on black ground on both quarters of each vessel in such a position as to be easily distinguishable from a distance.

(b) The net tonnage of the native vessel shall also, if practicable, be incised and painted inside the hull in a conspicuous position.

§ 5

The regulations referred to in Article 24 of the present Convention are as follows:

1. When a warship belonging to one of the High Contracting Parties encounters within the maritime zone but outside territorial waters a presumed native vessel of under 500 tons burden (net tonnage),

- (a) Flying the flag of one of the High Contracting Parties, or
- (b) Flying no flag,

and the Commanding Officer of the warship has good reason to believe that the said vessel is flying the flag of any High Contracting Party without being entitled to do so, or is illicitly conveying articles covered by Categories I, II, IV and V, he may proceed to stop the vessel in order to verify the nationality of the vessel by examining the document authorising the flying of the flag, but no other document.

2. Any vessel which presents the appearance of native build and rig may be presumed to be a native vessel.

3. For the purpose of verifying the nationality of the suspected vessel, a boat commanded by a commissioned officer in uniform may be sent to visit the vessel after she has been hailed so as to give notice of such intention. The officer sent on board the vessel shall act with all possible consideration and moderation. Before leaving the vessel, the officer shall draw up a proces-verbal in the form and language in use in his own country. This proces-verbal shall state the facts of the case and shall be dated and signed by the officer.

Should there be on board the warship no commissioned officer other than the Commanding Officer, the above prescribed operations may be carried out by a warrant, petty or non-commissioned officer at the discretion of the Commanding Officer.

The captain or master of the vessel visited, as well as the witnesses, shall be invited to sign the proces-verbal and shall have the right to add to it any explanations which they may consider expedient.

4. In the cases referred to in paragraph 1 (a) hereof, unless the right to fly the flag can be established, the vessel may be conducted to the nearest port in the maritime zone where there is a competent authority of the Power whose flag has been flown and shall be handed over to such authority, but if such a port should be at such a distance from the point of detention that the warship would have to leave her station or patrol to escort the detained vessel thereto, the vessel may be taken to the nearest port where there is a competent authority of one of the High Contracting Parties of nationality other than that of the warship and handed over to such authority, and steps shall at once be taken to notify this fact to the competent authority representing the power concerned.

No proceedings shall be taken against the vessel or her crew until the arrival of the representative of the Power whose flag the vessel was flying or without authority from such representative.

Instead of conducting the suspected vessel to a port as laid down above, the Commanding Officer of the detaining warship may hand her over to a warship of the nation whose flag she has flown if the latter consents to take charge of her.

5. The procedure laid down in paragraph 4 may also be followed if, after the verification of the flag and in spite of the voluntary production of the manifest, the Commanding Officer of the warship continues to suspect the vessel of engaging in the illicit conveyance of articles covered by Categories I, II, IV and V.

6. In the cases referred to in paragraph 1 (b) hereof, if it is ascertained, as a result of the visit made on board the vessel that, whereas it flew no flag, it was also not entitled to fly the flag of a recognised State, the vessel may, unless the innocent nature of her cargo can be

duly established to the satisfaction of the Commanding Officer of the warship, be conducted to the nearest point in the maritime zone where there is a competent authority of the Power to which the detaining warship belongs, and shall be handed over to such authority.

7. The authority before whom the suspected vessel has been brought shall institute a full enquiry in accordance with the laws and regulations of his country and in conformity with the procedure laid down in paragraph 8 below.

This enquiry shall be carried out in the presence of an officer of the detaining warship.

If, however, the presence of such officer is impracticable owing to the duties upon which the warship is engaged, an affidavit sworn by the Commanding Officer may in special cases be accepted by the authority holding the enquiry in place of the oral evidence of an officer of the warship.

8. (a) In the case of vessels referred to in paragraph 1 (a) above, if it is proved at this enquiry that the flag has been illegally flown, but that the vessel is entitled to fly the flag of a recognised State, she shall, if that State is one of the High Contracting Parties, be handed over to the nearest authority of that State. If such State is not a High Contracting Party, the vessel shall be disposed of by agreement between the State responsible for her detention and the State whose flag she is entitled to fly, and, pending such agreement, shall remain in the custody of the authorities of the nationality of the detaining warship.

(b) If it should be established that the use of the flag by the detained vessel was correct, but that the vessel was engaged in the illicit conveyance of articles covered by Categories I, II, IV and V, those responsible shall be brought before the courts of the State under whose flag the vessel sailed. The vessel herself and her cargo shall remain in charge of the authority conducting the enquiry. The illicit cargo may be destroyed in accordance with laws and regulations drawn up for the purpose.

(c) In the case of vessels referred to in paragraph 1 (b) above, if it be established that the vessel had the right to fly the flag of one of the High Contracting Parties but was engaged in the illicit conveyance of any of the articles covered by Categories I, II, IV and V, the procedure laid down in the preceding paragraph should be followed.

(d) In the case of vessels referred to in paragraph 1 (b) above, if it be established that the vessel was not entitled to fly the flag of any of the High Contracting Parties and was engaged in the illicit conveyance of any of the articles covered by Categories I, II, IV and V, the vessel and all cargo carried in addition to these articles shall be seized by such authorities and disposed of according to the national

laws and regulations of the authorities before whom the vessel has been brought. The destruction of this cargo may be ordered according to the same laws and regulations.

(e) If the authority entrusted with the enquiry decides that the detention and diversion of the vessel or other measures imposed upon her were irregular, he shall assess the amount of the compensation which he considers to be due.

9. If the decision and assessment of the said authority are accepted by the detaining officer and the authorities to whom he is subject, the amount awarded shall be paid within six months from the date of the said assessment.

10. If the detaining officer, or the authorities to whom he is subject, contest the decision or the amount of the compensation assessed, the dispute shall be submitted to a Court of Arbitration consisting of one arbitrator appointed by the Government whose flag the vessel was flying, one appointed by the Government of the detaining officer, and an umpire chosen by the two arbitrators thus appointed. The two arbitrators shall be chosen, as far as possible, from among the Diplomatic, Consular or Judicial officers of the High Contracting Parties. These appointments must be made with the least possible delay. Any compensation awarded shall be paid to the persons concerned within six months at most from the date of the award of the court.

11. The Commanding Officer of a warship who may have stopped a vessel flying a foreign flag shall in all cases make a report thereon to his Government, stating the grounds on which he acted. An extract from this report, together with a copy of the proces-verbal, drawn up by the officer, warrant officer, petty or non-commissioned officer sent on board the vessel detained, shall be sent as soon as possible to the Government whose flag the detained vessel was flying and to such of the High Contracting Parties as may have expressed the desire to receive such documents.

[Enclosure 2]

*Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, Signed at Geneva, June 17, 1925*⁶⁸

THE UNDERSIGNED PLENIPOTENTIARIES, in the name of their respective Governments:

WHEREAS the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices, has been justly condemned by the general opinion of the civilised world; and

⁶⁸ In English and French; French text not printed. Submitted to the Senate by the President on Jan. 12, 1926; at the time of publication of this volume, the Senate's advice and consent to ratification had not been given.

WHEREAS the prohibition of such use has been declared in Treaties to which the majority of the Powers of the World are Parties; and
To THE END that this prohibition shall be universally accepted as a part of International Law, binding alike the conscience and the practice of nations;

DECLARE:

That the High Contracting Parties, so far as they are not already Parties to Treaties prohibiting such use, accept this prohibition, agree to extend this prohibition to the use of bacteriological methods of warfare and agree to be bound as between themselves according to the terms of this declaration.

The High Contracting Parties will exert every effort to induce other States to accede to the present Protocol. Such accession will be notified to the Government of the French Republic, and by the latter to all signatory and acceding Powers, and will take effect on the date of the notification by the Government of the French Republic.

The present Protocol, of which the French and English texts are both authentic, shall be ratified as soon as possible. It shall bear to-day's date.

The ratifications of the present protocol shall be addressed to the Government of the French Republic, which will at once notify the deposit of such ratification to each of the signatory and acceding Powers.

The instruments of ratification of and accession to the present Protocol will remain deposited in the archives of the Government of the French Republic.

The present Protocol will come into force for each signatory Power as from the date of deposit of its ratification, and, from that moment, each Power will be bound as regards other Powers which have already deposited their ratifications.

IN WITNESS WHEREOF the Plenipotentiaries have signed the present Protocol.

DONE at Geneva in a single copy, this seventeenth day of June, One Thousand Nine Hundred and Twenty-Five.

For Germany

H. VON ECKARDT

For the United States of America

THEODORE E. BURTON

HUGH S. GIBSON

For Austria

For Belgium

For Brazil

CONTRE-AMIRAL A. C. DE SOUZA E SILVA
MAJOR ESTEVÃO LEITÃO DE CARVALHO

For the British Empire

I declare that my signature does not bind India or any British Dominion which is a separate Member of the League of Nations & does not separately sign or adhere to the Protocol.

ONSLOW

For Canada

WALTER A. RIDDELL

*For the Irish Free State**For India*

P. Z. COX

*For Bulgaria**For Chile*

LUIS CABRERA

Général de Division

*For China**For Colombia**For Denmark*

A. OLDENBURG

*For Egypt**For Spain*

EMILIO DE PALACIOS

For Esthonia

J. LAIDONER

For Abyssinia

GUÉTATCHOU

BLATA HEROUY HEROUY

A. TASFAE

For Finland

O. ENCKELL

For France

J. PAUL-BONCOUR

For Greece

VASSILI DENDRAMIS

D. VLACHOPOULOS

For Hungary

For Italy

PIETRO CHIMIENTI

ALBERTO DE MARINIS-STENDARDO

For Japan

M. MATSUDA

For Latvia

COLONEL HARTMANIS

*For Lithuania**For Luxemburg*

CH. G. VERMAIRE

For Nicaragua

A. SOTTILE

*For Norway**For Panama**For the Netherlands*

W. DOUDE VAN TROOSTWIJK

W. GUERIN

*For Persia**For Poland*

GÉNÉRAL CASIMIR SOSNKOWSKI

G. D. MORAWSKI

For Portugal

A. M. BARTHOLOMEU FERREIRA

AMERICO DA COSTA LEME

*For Roumania**Ad referendum*

N. P. COMNENE

GÉNÉRAL T. DUMITRESCU

For Salvador

J. GUSTAVO GUERRERO

*For Siam**For Sweden**For Switzerland*

Sous réserve de ratification :

LOHNER

ED. MÜLLER

For the Kingdom of the Serbs, Croats and Slovenes

J. DOUTCHITCH

GÉNÉRAL KALAFATOVITCH

CAPT. D. FRÉG. MARIASEVITCH

For Czechoslovakia

For Turkey

M. TEVFIK

For Uruguay

ENRIQUE E. BUERO

For Venezuela

**FAILURE OF THE UNITED STATES TO SECURE THE ADOPTION OF
THE RULES DRAFTED BY THE INTERNATIONAL COMMISSION FOR
THE REVISION OF THE RULES OF WARFARE***

700.00116/193

*The Secretary of State to the Ambassador in France (Herrick)*¹⁰

[No.] 829

WASHINGTON, January 26, 1924.

SIR: The Conference on the Limitation of Armament at Washington adopted on February 4, 1922, a Resolution¹¹ for the appointment of a Commission representing the United States, the British Empire, France, Italy and Japan to consider the following questions:

(a) Do existing rules of international law adequately cover new methods of attack or defense resulting from the introduction or development, since The Hague Conference of 1907, of new agencies of warfare?

(b) If not so, what changes in the existing rules ought to be adopted in consequence thereof as a part of the law of nations?

Article IV of the Resolution declared:

"that the Commission shall report its conclusions to each of the Powers represented in its membership. Those Powers shall thereupon confer as to the acceptance of the report and the course to be followed to secure the consideration of its recommendations by the other civilized Powers."

With the unanimous concurrence of the Powers mentioned in the above resolution an invitation to participate in the work of the Commission was extended to and accepted by the Netherlands Government. Moreover, it was agreed that the program of the Commission should be limited to the preparation of Rules relating to Aerial Warfare, and to Rules relating to the Use of Radio in Time of War.

A Commission of Jurists representative of the six Powers mentioned met in conference at The Hague from December 11, 1922, to February 19, 1923. That Commission has prepared a set of Rules for the Control of Radio in Time of War,¹² and also a set of Rules

¹⁰ For previous correspondence concerning the revision of rules of warfare, see *Foreign Relations*, 1923, vol. I, pp. 47 ff.

¹¹ The same to the Ambassadors in Great Britain (No. 27), Italy (No. 477), and Japan (No. 87), and to the Minister in the Netherlands (No. 80).

¹² *Foreign Relations*, 1922, vol. I, p. 288.

¹³ *Ibid.*, 1923, vol. I, p. 60.

for Aerial Warfare"⁷³ which were reported to the Powers aforesaid by the Commission. In its Report the Commission expressed belief "that if these sets of rules are approved and brought into force, it will be found expedient to make provision for their reexamination after a relatively brief term of years to see whether any revision is necessary".^{73a}

The Government of the United States is led to believe that the Rules as reported represent a finer achievement with respect to the matters dealt with than could be anticipated from the action of any other international body, and that they mark a distinct step forward in promoting the work of international justice in time of war. It is, therefore, disposed to initiate proceedings looking to the adoption of the Rules by the several Powers which cooperated in their formulation. This Government is accordingly prepared to make known to the other interested Powers its readiness, in conjunction with them, to accept both sets of Rules as reported, and to make inquiry whether they would be disposed to conclude Conventions in such a sense, annexing the Rules thereto. As an appropriate basis for such Conventions, the Department believes that the outline of a treaty proposed by the American delegation on the Commission of Jurists on February 12, 1923,⁷⁴ would suffice. That Convention, embracing three short Articles, provides, after a preamble, (a) for the issuance of instructions to military and naval forces in conformity with the annexed Rules respecting the use of aircraft (or radio telegraphy); (b) that the annexed Rules be regarded not as superseding but as supplementing the Rules as they may from time to time exist, the observance of which in warfare is enjoined by international law and usage, by international conventions, and by the dictates of humanity and the public conscience; and (c) that the annexed Rules shall remain in force until July 1, 1933, and that in case none of the Contracting Parties shall, eighteen months before that date, have given notice of a desire for the revision of the Rules, they shall continue in force until the expiration of eighteen months after notice of a desire for such revision shall be given; the Contracting Parties further agreeing that, within ten months after such notice has been given, they will meet in conference for the purpose of revising the Rules.

To the foregoing might possibly be added a fourth Article providing for the adherence of States other than the Powers above mentioned.

You will accordingly, at an early date, bring to the attention of the Government of the State to which you are accredited the sub-

⁷³ *Foreign Relations*, 1923, vol. I, p. 73.

^{73a} *Ibid.*, pp. 67, 68.

⁷⁴ Not printed.

stance of the foregoing statement. You will make it clear that the Government of the United States is ready, in conjunction with the Powers above mentioned, to accept the two sets of Rules reported by the Commission of Jurists. You will inquire whether the Government of the State to which you are accredited would be disposed to conclude with the United States and the Powers above mentioned two Conventions such as were proposed by the American delegation at The Hague, February 12, 1923, and as above outlined (including a fourth Article as proposed above), to one of which the Rules for the Control of Radio in Time of War should be annexed, and to the other the Rules for Aerial Warfare should be annexed; both Conventions to be ratified according to the constitutional requirements of the signatory States. You are further directed to inform such Government that the Government of the United States is prepared, in conjunction with the several Powers mentioned above, to authorize the signature of Conventions such as those proposed.

I am [etc.]

CHARLES E. HUGHES

700.00116/206

The Ambassador in Japan (Woods) to the Secretary of State

No. 459-E

TOKYO, April 23, 1924.

[Received May 16.]

SIR: I have the honor to transmit herewith a copy of Note No. 54, dated April 19, 1924, from the Imperial Japanese Foreign Office to which reference was made in the Embassy's telegram No. 77 of April 22, 11 A. M.⁷⁵

The note in question sets forth the willingness of the Japanese Government to adopt the Rules relating to Aerial Warfare and the Rules relative to the Use of Radio in Time of War, prepared by the Commission of Jurists who met at the Hague from December 11, 1922, to February 19, 1923.

I have [etc.]

CYRUS E. WOODS

[Enclosure—Translation]

*The Japanese Minister for Foreign Affairs (Matsui) to the
American Ambassador (Woods)*

No. 54

TOKYO, April 19, 1924.

MONSIEUR L'AMBASSADEUR: On March 4th last, Mr. Caffery was good enough to address me a Note asking, under instructions from his Government, for an expression of the views of the Japanese Government on the adoption of the Rules relating to Aerial Warfare and

⁷⁵ Not printed.

of the Rules relative to the Use of Radio in time of War, both prepared by the Commission of Jurists who met at the Hague from December 11, 1922, to February 19, 1923.

I have now the honor to inform Your Excellency that the Japanese Government, believing, as they do, that the work of revising the rules of warfare promoted by the Commission of Jurists at the Hague is a matter for sincere congratulation in the interest of humanity, are happy to acquiesce in the proposal of the American Government to conclude as among the Powers represented on that Commission the two conventions substantially on the lines suggested by the American Delegation at the Hague on February 12, 1923, and presented to me in Mr. Caffery's Note under acknowledgment, (including a fourth Article providing for the adherence of States other than the above-mentioned Powers), the Rules for the Control of Radio in Time of War to one Convention and the Rules for Aerial Warfare to the other, both Conventions to be ratified in accordance with the constitutional requirements of the signatory Powers.

I avail myself [etc.]

BARON KEISHIRO MATSUI

700.00116/206

*The Acting Secretary of State to the Ambassador in France
(Herrick)*⁷⁶

No. 1061

WASHINGTON, July 18, 1924.

SIR: Reference is made to the Department's instruction No. 829 of January 26, 1924, in which you were informed of the results achieved by a Commission of Jurists representative of the United States, the British Empire, France, Italy, Japan and the Netherlands, at The Hague, from December 11, 1922, to February 19, 1923, with regard to the codification of rules for the control of radio in time of war and also a set of rules for aerial warfare. You were requested in the instruction under reference to make clear to the Government to which you are accredited that the Government of the United States is ready, in conjunction with the powers above mentioned, to accept the two sets of rules reported by the Commission of Jurists. You were further instructed to inquire whether the French Government would be disposed to conclude with the United States and the powers above mentioned two conventions such as were proposed by the American delegation at The Hague February 12, 1923, to one of which the rules for the control of radio in time of war should be annexed and to the other, the rules for aerial warfare

⁷⁶ Similar instructions were sent on the same date to the Ambassadors in Great Britain and Italy, and to the Minister in the Netherlands.

should be annexed; both conventions to be ratified according to the constitutional requirements of the signatory states.

The Department's records do not indicate that any reply has been received from the French Government to this matter, which this Government considers highly important and a step which may have a far-reaching and beneficial effect in the future.

The Japanese Government has informed this Government that it is happy to acquiesce in the proposals of the United States Government to conclude the two conventions substantially on the lines suggested by the American delegation at The Hague on February 12, 1923, believing, as it does, that the work of revising the rules of warfare promoted by the Commission of Jurists at The Hague is a matter for sincere congratulation in the interest of humanity. The Department desires that you avail yourself of an early opportunity to bring this matter again to the attention of the Foreign Office, referring to the favorable action taken by the Government of Japan, and emphasizing this Government's sincere hope that the French Government will now find itself in a position to give an affirmative reply to the suggestion conveyed in the Department's instruction of January 26, 1924.

I am [etc.]

JOSEPH C. GREW

700.00116/206 : Telegram

*The Secretary of State to the Ambassador in France (Herrick)*¹⁷

WASHINGTON, January 10, 1925—3 p. m.

24. Department's instruction 1061 July 18. Department hopes conventions may be signed so that they may be submitted for consideration by Senate before Congress adjourns on March 4. Informally confer with Foreign Office and urgently endeavor to obtain favorable decision. Telegraph report.

HUGHES

700.00116/226

The Ambassador in Italy (Fletcher) to the Secretary of State

No. 313

ROME, January 31, 1925.

[Received February 17.]

SIR: With reference to the Department's telegraphic instruction No. 4, January 10, 3 p. m.,¹⁸ and confirming the Embassy's telegrams

¹⁷ Similar telegrams were sent on the same date to the Ambassadors in Great Britain (No. 23) and Italy (No. 4), and to the Minister in the Netherlands (No. 5).

¹⁸ See telegram, *supra*.

No. 14, January 22, 6 p. m., and No. 22, January 30, 5 p. m.,¹⁹ with regard to the codification of Rules for the Control of Radio in Time of War, and also a set of Rules for Aerial Warfare, I have the honor to inform the Department that after repeated efforts on the part of the Embassy to obtain a definite statement from the Foreign Office in regard to the decision of the Italian Government concerning this question, I received on January 30th last a reply from the Minister for Foreign Affairs, which was summarized in my telegram No. 22, above referred to.

The Department will note from the enclosed translation of the Note from the Foreign Office that while the Italian Government accedes to the principles involved in the Conventions proposed, it feels that in view of recent developments in radio and aerial navigation, and the progress made in juridical matters, it would be advisable to consider the review and expansion of the Conventions. The Note also suggests the extension of the provisions in the first Convention regarding the control of radio to include radiotelephonic communication, which the Italian Government feels has today assumed a position of particular importance.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

The Italian Minister of Foreign Affairs (Mussolini) to the American Ambassador (Fletcher)

203510/12

[ROME,] January 29, 1925.

MR. AMBASSADOR: I have the honor to refer to the Note of Your Excellency dated January 12, 1925, No. 8.

The proposals which form the subject of the two Hague Conventions of February, 1923, upon the control of radio during war, and upon the rules for Aerial Warfare, have been examined minutely by the Italian Government, through its various technical departments.

The Royal Government is always favorable to any humanitarian movement tending to the bringing about of accords and acts which regulate the various forms of warfare.

As regards the principles involved, therefore, the Royal Italian Government would have no difficulty in acceding to the rules established in the Conventions referred to.

However, in view of recent developments both in radio and in aerial navigation, and because of the progress likewise made in juridical

¹⁹ Neither printed.

matters, the Royal Italian Government thinks that it would be useful to review and complete the plans for conventions prepared at The Hague.

It might also be wise if, in connection with the control of the use of radio, there be included in the first of the conventions in question an apposite clause extending its provisions to include radiotelephonic communication, which has today assumed, as you are aware, a particular importance.

Accept [etc.]

MUSSOLINI

700.00116/227

The Minister in the Netherlands (Tobin) to the Secretary of State

No. 398

THE HAGUE, February 12, 1925.

[Received February 26.]

SIR: Referring to my telegram No. 11, of February 12, 4 p. m. (1925),⁸⁰ and to previous correspondence, I have the honor to transmit herewith copies and translations of a Note which I received to-day from the Netherlands Foreign Office, replying in great detail to the inquiries contained in the Department's Instruction No. 80, of January 26, 1924,⁸¹ concerning the two sets of rules prepared by the Commission of Jurists which met at The Hague from December 11, 1922 to February 19, 1923.

I have [etc.]

RICHARD M. TOBIN

[Enclosure—Translation ⁸²]

The Netherlands Minister of Foreign Affairs (Karnebeek) to the American Minister (Tobin)^{82a}

No. 4391

THE HAGUE, February 11, 1925.

MR. MINISTER: Your Excellency's letter of February 12, 1924, concerning the Rules of Aerial Warfare and the Control of Radio in Time of War, prepared by the Commission of Jurists to Consider and Report upon the Revision of the Rules of Warfare has, as Your Excellency is aware, been submitted to serious study.

⁸⁰ Not printed.

⁸¹ See footnote 70, p. 93.

⁸² File translation revised.

^{82a} In a note dated Sept. 1, 1939, to the American Minister at The Hague, the Netherlands Minister of Foreign Affairs (Van Kleffens) consented to the publication of this document with the explanation that the point of view of the Netherlands Government with respect to various points presented therein has undergone modifications and the present point of view is therefore not in its entirety identical to that expressed in 1925 (file No. 026 Foreign Relations/1425).

Her Majesty's Government has devoted particular attention to the study of the whole of these rules which the United States and Japan appear disposed to accept in conjunction with the other countries represented on the Commission which so carefully elaborated them. As a result of the examination to which these rules were subjected by the Netherlands, I am able to reply as follows to the question as to whether the Netherlands Government would be disposed to conclude two conventions with the United States and the other countries above mentioned on the basis outlined by the Government of the United States, one of which would have as an annex the rules concerning aerial warfare and the other the rules for the control of radio in time of war.

With respect to the form of the conventions to be concluded, Her Majesty's Government agrees in principle with the ideas expressed by the American Government through the intermediary of the American delegation to the International Commission of Jurists, in its plenary session of February 12, 1923, as well as in the above-mentioned letter from Your Excellency. On its side, the Netherlands Government proposes the insertion in each of the said conventions of a provision conformable to the proposal concerning indemnities made by the Netherlands delegation on the Commission of Jurists with respect to the rules of aerial warfare and inserted at the end of the general report of the Commission. It points out that the principle of indemnity had been approved by the Commission. The Netherlands Government likewise proposes the insertion in the two conventions of a provision whereby differences which might arise with respect to these indemnities would be submitted, in the absence of settlement through other means, to arbitration or to the jurisdiction of the Permanent Court of International Justice. For it is expedient, when, as is now the case, there is a question of establishing new rules of international law and particularly new rights for belligerents, to surround them with guarantees with a view to assuring their strict application.

While, with respect to the context of the rules to be annexed, it reserves the right to present observations of detail at the proper moment, the Royal Government would be grateful if the Government of the United States would be good enough to consider the question as to whether it is not expedient, in order to obtain as great a number as possible of adhesions to the two conventions to be concluded, to convoke a new conference to which all states of a certain importance would be invited, in order definitely to agree upon the rules above mentioned. It seems that these rules could then count with more certainty upon general approval and enforcement than if, as is proposed, the states represented upon the Commission of Jurists

agreed amongst themselves whilst leaving to the other states—of which some may be reckoned as the most important from the standpoint of military importance—merely the possibility of adhering to these rules without their having had an opportunity to express their opinion on these subjects. This procedure also seems better to carry out the idea of the Washington resolution, whilst it constitutes the best manner of assuring the conclusions of the Commission being taken into consideration by the other civilized powers. The Netherlands Government would be glad to learn the view of the American Government on this important point and would appreciate it if it would take up this suggestion with the other States represented on the International Commission of Jurists.

Her Majesty's Government also believes, even if a relatively large number of states should adhere to the conventions to be concluded, but especially in case they are concluded only by the states represented on the Commission, that it would be advisable to remove all doubt concerning the reply to the question as to whether these conventions must or must not be applied in a war in which the noncontracting states might be a party. This point is not clearly regulated in the draft treaty presented by the American delegation on February 12, 1923, and Your Excellency's letter under acknowledgment makes no mention thereof.

With respect to the rules regarding aerial warfare elaborated by the Commission which would be annexed to the above-mentioned convention, the Netherlands Government believes that these rules could contribute, at least in a great measure, toward bringing certainty in a domain of international law where, until now, this certainty is lacking, and toward favoring the development of international law in a direction which seems to fill the needs of international society as the Netherlands Government understands them. For this reason, the Netherlands Government, always desirous of promoting the development of international law, would be happy to subscribe to most of the rules in question, and it thanks the American Government for having taken the initiative toward the conclusion of a convention which would set up these rules as provisions of law.

The Netherlands Government, while still referring to the right it has reserved above to suggest modifications of form later, can agree to the greater part of the provisions of the project. But, excepting the provisions of chapter VII, concerning which its point of view is explained later, it finds that articles 5, 30, and 36, and especially article 37, could hardly be accepted by it in their present form. The Netherlands delegation on the Commission of Jurists brought forward objections to these stipulations which are reproduced in the

various procès-verbaux of the meetings⁸³ and to which I beg to refer you. Generally speaking, the delegation believed that the said articles gave too many rights to the belligerents, to the detriment of neutral interests. The Netherlands Government would like to see a revision of these stipulations in the sense of a better protection of the situation of neutral persons and property.

Her Majesty's Government cannot express its views regarding the contents of chapter VII of these rules, concerning the right of search, of capture, and of confiscation, before a new effort has been made to explain the sense, to fill the gaps, and to correct the faults thereof. The Royal Government does not conceal the fact that the debates which took place concerning this matter in the Commission of Jurists caused it the same grave concern that led the Netherlands delegation to make a general reservation concerning the subject of this chapter, apart from several special objections that it had against certain points of detail. The motives which determined the attitude of the delegation are enumerated in the general report of the Commission⁸⁴ and in the procès-verbaux of its meetings. As appears from the general report, the delegation pointed out "that the custom and practice of international law is limited to a right on the part of belligerent war vessels to capture, after certain formalities, merchant vessels used for such commerce. Nothing justifies the extension of this right to aircraft, which constitute a new engine of war entirely different from that of a war vessel, and entirely incapable of exercising on merchant vessels or on private aircraft a control similar to that exercised by a war vessel on vessels of commerce. Consequently there is no reason to grant to military aircraft the right of capture as though it were a war vessel, and no reason for subjecting commerce to capture when it is done by aircraft. In the development of international law the tendency must be to accord greater rather than fewer immunities to private property."

May I be permitted to recall that this attitude was adopted by the delegation, aside from the foregoing arguments, for the following reasons: Even if one were inclined for other reasons to give to military airplanes the right to stop, to search, and to capture merchant ships and private airplanes, it is necessary to recognize that, in view of the present state of aviation, it will be impossible in most cases for the said military airplanes to proceed in accordance with the rules and customs established for the exercise of this right by vessels against vessels. For these rules and customs require (a) search on the site of stoppage at sea, (b) (in case of stoppage followed by capture) the placing on board of the captured vessels of a crew for conducting

⁸³ Not printed.

⁸⁴ *Foreign Relations*, 1923, vol. I, p. 67; also Great Britain, Cmd. 2201, Miscellaneous No. 14 (1924), p. 43.

the prize, and escort of the latter by a war vessel of the capturing state to one of its ports. It is evident that search at the site of stoppage at sea, as well as the placing on board of a crew to conduct the prize and escort to a port of the belligerent state will in most cases be impracticable for airplanes. The delegation also brought to light the fact that, just because submarines cannot conform to the rules and customs of maritime war, the use of these same submarines against merchant vessels was subjected, by the Washington Conference of 1921-22, to prescriptions of a wider scope. The same thing should have been done with respect to the use of airplanes against merchant vessels and private airplanes, because they are even less capable of conforming to the rules and customs above mentioned than are submarines.

I likewise recall that the discussions which took place in the Commission were of such nature as even more to increase the fears of the delegation. For it appeared that certain delegations believed that the visitation and search of a vessel or an airplane stopped at sea does not necessarily have to take place on the spot, before such vessel or airplane can be forced to proceed to belligerent territory. It is certain that, if this rule were admitted—and Her Majesty's Government, for its part, does not admit it—visitation and search of vessels would hardly ever take place on the spot, and that the merchant vessels and airplanes would be almost always taken to belligerent ports, under the menace of the belligerent's guns and with all the direful consequences which would follow. All guarantee against unjustified deviations would disappear; signals not understood or imperfectly understood, either from units of a same belligerent or from units of diverse belligerents, a lack of fuel—very possible in the case of airplanes—in the course of the journey of deviation, and many other circumstances would expose peaceful navigation to the worst perils; there is also the fact that a great many small craft which have no radiotelephone or radiotelegraph apparatus on board, would not as a general rule understand the signals given by aviators.

There is only one case in which the Netherlands delegation on the Commission of Jurists was ready to permit the capture of a neutral airplane or vessel by a belligerent airplane; that is, in the case of hostile assistance contrary to neutrality.

On its side, the Netherlands Government believes that its delegation rightly raised the greatest objections against chapter VII of the rules concerning aerial warfare. If it were sure that the last word had been said concerning this subject, it would be constrained to reject this chapter. But it wonders whether amendments to this chapter might not make it acceptable. It would like first of all to know whether the pretense to the right of deviation is really the

final word of the Governments which have presented it. It would like, secondly, to be advised of the possibility of having accepted, afterward, the American proposal concerning the exercise by a belligerent military airplane of the right of visit against merchant vessels, which proposal appears at the place in the general report of the Commission where this question is discussed at length.

Finally, the Netherlands Government recalls that its delegation on the Commission of Jurists, in the course of the meetings, raised objections to articles 50, 51, and 53 (*i*) (see for instance paragraphs 106, 107, and 137 of the procès-verbaux of the plenary sittings of the Commission of Jurists). The Netherlands Government could not summarily set these objections aside. It also wonders whether the provision of article 53 (*g*) does not require some modification to do away with the too absolute character of its present wording. The Royal Government would like to learn the opinion of the other interested powers on this point. It therefore reserves its attitude with respect to the whole of chapter VII.

Concerning the proposed convention for the control of radio in time of war, the Royal Government takes the liberty of referring to the remarks made above regarding the two conventions to be concluded for the purpose of bringing into force the labors of the Commission of Jurists. With respect to the rules themselves for the control of radio in time of war, the Netherlands Government makes the following observations:

In a general manner, and with the sole exception of article 6, it can accept these rules in principle. Concerning article 6, it would like to ask the interested Governments if they are not of the opinion that the period of one year mentioned in paragraph 3 of this article is not much too long, and, secondly, if they do not believe that it would be advisable to open up the possibility of recourse to an international court (preferably the Permanent Court of International Justice) in regard to the decisions of the national prize courts pronounced in cases falling under article 6 of these rules. It is only after having taken cognizance of the definite opinion of the other Governments that the Netherlands Government would care to make any definite statement on this subject, and it would be grateful if the American Government would be good enough to ask the other states—in the first place those which were represented on the Commission of Jurists—to give their opinion in this connection.

While awaiting with the greatest interest the remarks which the contents of this note will suggest to the Government of the United States, I seize this occasion [etc.]

For the Minister:

A. M. SNOUCK HURGRONJE

The Secretary General

700.00118/230

The Ambassador in France (Herrick) to the Secretary of State

No. 4941

PARIS, March 12, 1925.

[Received March 21.]

SIR: With reference to my telegram No. 170 of March 11, 3 p. m.,⁸⁵ I have the honor to transmit herewith a copy and translation of the reply from the French Foreign Office, dated March 10th, with regard to the two conventions proposed at The Hague on February 12, 1923, for the Control of Radio in Time of War and Rules for Aerial Warfare.

I am forwarding a copy of this despatch with its enclosures to the American Embassy at Rome and the American Legation at The Hague for their information.

I have [etc.]

MYRON T. HERRICK

[Enclosure—Translation]

The French Minister of Foreign Affairs (Herriot) to the American Ambassador (Herrick)

[PARIS,] March 10, 1925.

MR. AMBASSADOR: Your Excellency was good enough, in a letter dated February 4, 1924, to inform my predecessor that the Government of the United States of America proposed to incorporate in a new Convention the rules prepared by the Commission of Jurists which met at The Hague from December 11, 1922 to February 19, 1923. The French Government recognizes the very deep interest which this suggestion possesses, but an examination of the rules that have been proposed has shown that most of them reproduce solutions which have already been adopted by France and included either in the International Conventions already in force, such as The Hague Convention of 1907,⁸⁶ or amongst the practices of international law sanctioned by custom.

Other proposals, furthermore, would not be without objection, because, on many points, the innovations which they imply are not in conformity with certain principles, such as the freedom of the seas, or are open to criticism from other points of view.

The provisions with regard to aerial warfare which the aforementioned Commission has more especially endeavored to regulate, are already included to a great extent in the Convention on Aerial

⁸⁵ Not printed.

⁸⁶ For texts of conventions concluded at the Second International Peace Conference, held at The Hague, 1907, see Malloy, *Treaties, 1776-1909*, vol. II, pp. 2220-2389.

Navigation of October 13, 1919,⁸⁷ but at times have a tendency to deviate therefrom.

The ratification by the United States of the Air Convention of 1919, which they have already signed, would have the advantage of putting immediately into practice the provisions already accepted for several years and which have received a contractual basis, while the present suggestion of the Government of the United States would risk delaying their application by raising fresh discussions, either as to fundamental principles or form, which might be lengthy, in view of the number of States which would be called upon to take part therein.

Please accept [etc.]

HERRIOT

700.00116/233

The Chargé in Great Britain (Sterling) to the Secretary of State

No. 1166

LONDON, April 9, 1925.

[Received April 23.]

SIR: I have the honor to refer to the Embassy telegram No. 115, of April 9th, 11 a.m.,⁸⁸ relating to two proposed conventions relative to the rules for the control of radio in time of war, and in this connection to forward a copy of the Foreign Office note mentioned therein, in triplicate.

I have [etc.]

F. A. STERLING

[Enclosure]

*The British Secretary of State for Foreign Affairs (Chamberlain)
to the American Chargé (Sterling)*

No. T 3463/757/377

[LONDON,] 6 April, 1925.

SIR: His Majesty's Government have given careful consideration to the proposals of the United States Government to my predecessor contained in Mr. Kellogg's note of the 13th February, 1924, enquiring whether His Majesty's Government would be disposed to conclude with the United States of America and certain other powers two conventions such as were proposed by the United States delegation at The Hague on February 12th, 1923, relative to the rules for the control of radio in time of war and for aerial warfare, drawn up at The Hague in 1922-23. I regret that owing to the necessity of an exhaustive examination of the many important questions involved, I have been obliged to delay replying to Mr. Kellogg's above-mentioned and subsequent notes.

⁸⁷ Malloy, *Treaties*, 1910-1923, vol. III, p. 3768.

⁸⁸ Not printed.

2. I now request you to inform your Government that His Majesty's Government, while warmly appreciating the friendly and humanitarian motives which have prompted these proposals, have decided to await further international discussion on this question before formulating their considered views on the Report of The Hague Commission.

I have [etc.]

AUSTEN CHAMBERLAIN

NEGOTIATIONS ON BEHALF OF THE WORLD WAR FOREIGN DEBT COMMISSION FOR THE SETTLEMENT OF DEBTS OWED THE UNITED STATES BY FOREIGN GOVERNMENTS⁹⁰

Belgium

855.51/344

The Secretary of State to the Ambassador in Belgium (Phillips)

No. 111

WASHINGTON, *March 26, 1925.*

SIR: With reference to your despatch No. 50 of August 18, 1924,⁹⁰ and other correspondence regarding the repayment by Belgium of certain debts owed to Great Britain, and the bearing thereof on the obligation of Belgium to make corresponding payments to the Government of the United States, the Department transmits herewith the text of a note to the Belgian Government which you are instructed to present at the first available opportunity.

Please inform the Department by telegraph of the date of the note which you present pursuant to this instruction.

I am [etc.]

FRANK B. KELLOGG

[Enclosure]

Text of Note To Be Presented to the Belgian Foreign Office⁹¹

Under instructions from my Government, I have the honor to refer to certain correspondence exchanged in 1919 between representatives of the Government of Belgium and representatives of the Treasury Department of the United States regarding the conditions under which the Government of the United States was prepared to make further advances to the Government of Belgium. I have been instructed to refer in particular to a letter dated February 5, 1919, from the Belgian Minister in Washington to the then Secretary of the Treasury, to a letter dated April 22, 1919, from Mr. Rathbone, Assistant Secretary of the Treasury, to Mr. Symons, Counsellor of the Belgian Legation, to Mr. Symons' reply of May 14, 1919, and to

⁹⁰ Continued from *Foreign Relations*, 1924, vol. i, pp. 135-142.

⁹¹ Not printed.

⁹² In telegram No. 32, Apr. 22, noon, the Ambassador in Belgium reported the delivery of this note to the Belgian Foreign Office on that day (file No. 855.51/396).

letters dated June 15, 1919, and July 8, 1919, from Mr. van den Ven, Special Delegate of the Belgian Minister of Finance in Paris, to Mr. Davis of the United States Treasury.

The letter dated February 5, 1919, from the Belgian Minister in Washington to the then Secretary of the Treasury, was as follows:

"In reply to your letter of January 18th, I have much pleasure in informing you, on receipt of telegraphic advice from my Government to that purpose, that the Belgian Government willingly grants the request from the United States Treasury that advances which it has made or which would be made to Belgium for food and relief purposes during the period which has elapsed since the cessation of hostilities, will receive treatment as favorable as that accorded to advances which may be made to my Government by the British or French Governments for reconstruction purposes."

The letter of April 22, 1919, from Mr. Rathbone to Mr. Symons was in part as follows:

"I take pleasure in informing you that the Secretary of the Treasury is prepared from time to time to establish further credits in favor of your Government to be availed of from time to time against obligations of your Government in a corresponding amount at such times and to such extent as shall be determined by the Secretary of the Treasury up to the amounts hereafter indicated, for the purposes hereinafter set forth and on the understanding herein expressed."²

"The amounts of the credits which the Secretary of the Treasury is prepared to establish in favor of your Government, as aforesaid, (subject to reduction as hereinafter stated) and the purposes for which the same are to be availed of, are as follows:

"(a) \$2,150,000 or such lesser amount as may be sufficient with the unexpended credit balance in favor of your Government for relief purposes in the amount of \$28,300,000, to provide for the amounts which shall become due from your Government to the Commission for Relief in Belgium in connection with the April program of said Commission and to defray the cost of the purchase in the United States of not exceeding 80 tons of wheat and 10 tons of lard, and shipping charges in respect thereof to the extent such payment is made to the United States Shipping Board on ships under the control of the United States Shipping Board;

"(b) \$1,000,000 or such lesser amount as may be sufficient to provide for such purchases of your Government in the United States up to June 1, 1919, for military supplies as may from time to time be approved by the Treasury;

"(c) An additional sum sufficient to pay the interest due on May 15, 1919, on obligations of your Government held by the United States."²

² The omission which follows was indicated in the original note.

"The advances which may be made by the Secretary of the Treasury to your Government against these credits will be made on the faith of the assurances given to the Secretary of the Treasury by the Belgian Minister in his letter dated February 5, 1919, that advances made or to be made by the United States to the Belgian Government for food and relief purposes after the cessation of hostilities would receive treatment as favorable as that accorded to advances which might be made to the Belgian Government by the British or French Governments for reconstruction purposes, and on the understanding that in accordance with the determination of the Supreme Economic Council in Paris all advances made to your Government after November 11, 1918, by any of the allied governments and powers associated in the war for food, relief and reconstruction purposes would be made a first lien or charge on the amounts received by your Government from the enemy countries for reparation or indemnity.

"As under the terms of the armistice the cost of the maintenance of the Belgian army of occupation since November 11, 1918, is to be paid by Germany, and as it is understood that the only part of this cost for which cash is received now is the part for which expenditures are incurred in marks, the balance constituting a claim against Germany to be liquidated out of its additional payments to Belgium in priority to payments for reparation, the Secretary of the Treasury is not prepared to make further advances to your Government except upon its assurance that the Belgian Government will repay to the Government of the United States the amount of advances made to your government after November 11, 1918, by the United States Treasury to provide supplies for the Belgian army, out of the first moneys received by the Government of Belgium from Germany under the terms of the armistice."

The letter from Mr. Symons dated May 14, 1919, replying to the above-mentioned letter of April 22, 1919, from Mr. Rathbone, was as follows:

"I have the honor to inform you that I have received a cable message from the Minister of Finances of Belgium confirming the acceptance by the Belgian Government of the conditions established for further advances to Belgium by the United States Government as set forth in your letter of April 22nd."

The letter dated June 15, 1919, from Mr. van den Ven to Mr. Davis contained the following statement:

"In reply to your letter to the Belgian Minister of Finance of April 29, and to your letters to me of May 12 and May 28, I am requested to inform you that the Belgian Government agrees to repay to the United States Government the amount of advances made by the United States since November 11, 1918 for the purchase of supplies necessary to the maintenance of the Belgian army of occupation out of the first moneys which Germany will pay to Belgium under the terms of the Armistice to cover the cost of the maintenance of the Belgian army of occupation."

The letter from Mr. van den Ven to Mr. Davis dated July 8, 1919, was as follows:

"In answer to your letter to me of the 21st of June, the Belgian Government agrees entirely to your understanding of the terms of my letter of June 15th. The agreement referred to in this letter equally includes moneys paid by Germany to Belgium to cover the cost of maintaining the Belgian army of occupation, whether such moneys will be paid under the terms of the armistice or of the Treaty of Peace.

"The Belgian Government accepts, moreover, that the first moneys received by Belgium from Germany under the terms of the armistice or the Treaty of Peace to cover the cost of the maintenance of the Belgian army of occupation shall be allotted to the Governments of the United States, Great Britain and France in proportion to the advances made by each of these three Governments to Belgium since the armistice in support of the Belgian army of occupation."

The understanding pursuant to which the Government of the United States continued after the armistice to make advances to the Government of Belgium is clearly set forth in the above quoted extracts from the contemporary correspondence which establish beyond question the duty of Belgium to repay its post-armistice borrowings out of its receipts from Germany, and to accord to the United States no less favorable treatment in connection with payments on account of such borrowings than is accorded to other creditor governments.

On August 18, 1921, the Secretary of State of the United States addressed a note to the Belgian Ambassador at Washington⁹³ referring to the assurances given by the Belgian Government in the course of the above-mentioned correspondence, stating that it was the information of the United States that certain cash payments on reparation account had been or were about to be made to Belgium, and requesting information as to what steps the Belgian Government was taking towards the allocation of the proper proportion of these cash reparation payments to apply on the advances made by the United States pursuant to the understandings in question. No reply was received to this communication, and on October 22, 1921, a further note on this subject was addressed to the Belgian *Chargé d'Affaires*.⁹⁴ No reply was received to this second communication, and on January 3, 1922, a third note was addressed to the Belgian Embassy⁹⁵ requesting an explanation of the position of the Belgian Government with respect to the repayment of the post-armistice advances made by the United States. In a note dated January 7, 1922,⁹⁶ the Belgian Ambassador replied that he had drawn the attention of his Government to the matter and that he would not fail to inform the Department of the reply of his Government when it reached him. Although more than three years have since elapsed, the Government of the United States

⁹³ Not printed.

has received no further reply to its inquiries of August 18, 1921, and the Government of Belgium, although according to the figures of the Reparation Commission it has received on reparation account considerably more than one billion gold marks in cash, and than 300 million gold marks in kind, has made no suggestion that any portion of such receipts should be applied in accordance with the above-mentioned understanding between the two Governments.

In April, 1922, the Government of Belgium was informed of the creation of the World War Foreign Debt Commission and of the desire of that Commission to receive any proposals or representations which the Government of Belgium might wish to make for the settlement or refunding of its obligations to the Government of the United States,⁹⁴ and in a note dated April 27, 1922,⁹⁵ the Belgian Ambassador at Washington stated that he had been designated by his Government to negotiate with the World War Foreign Debt Commission with a view to arriving at a satisfactory settlement within the scope of the Act creating that Commission. The Belgian Ambassador at Washington later submitted to the World War Foreign Debt Commission certain data regarding the financial situation of Belgium, stating that his Government would pay the interest due on the notes maturing in August, 1922, but would be unable to pay the principal, and informed the Commission that he was sailing for Belgium on June 17, 1922, and that on his return he would lay before the Commission definite proposals for the consolidation of the Belgian indebtedness to the United States.^{95a} No such proposals have, however, been received from the Belgian Government and, excepting payments which will be made by Belgium out of sums received under Article 4 of the Agreement signed in Paris on January 14, 1925,⁹⁶ Belgium is at the present time making payment to the Government of the United States only on account of the interest accruing on obligations, now overdue, which were taken by the War Department in exchange for war material sold to Belgium by the Liquidation Commission of the War Department. The obligations in question are but a small part of the total indebtedness of the Government of Belgium to the Government of the United States, which on November 15, 1924, aggregated \$377,029,570.06 in principal amount and \$94,794,143.33 in unpaid interest, a total of \$471,823,713.39.

In view of the clear understanding reached in 1919 between the Government of the United States and the Government of Belgium regarding the advances made by the former Government to the latter

⁹⁴ See telegram of Apr. 21, 1922, 12 noon, to the Ambassador in France, *Foreign Relations*, 1922, vol. I, p. 399.

⁹⁵ *Ibid.*, p. 400.

^{95a} See *Minutes of the World War Foreign Debt Commission*, 1922-1926 (Washington, Government Printing Office, 1927), pp. 3-4.

⁹⁶ See p. 150.

subsequent to the armistice, and in view of the failure of Belgium to negotiate a general debt settlement in substitution therefor, it is with no little surprise that the Government of the United States has learned that the Government of Belgium has made substantial payments to certain other creditor governments on account of post-armistice advances made by those governments for purposes similar to those for which the Government of the United States made its advances. It appears from an official publication of the Belgian Government⁹⁷ that from November 11, 1918, to June 30, 1919, the Government of Belgium became indebted to the Government of Great Britain in the sum of £8,096,680:12:7. The details of this indebtedness are reported to be as follows:

1. Advances in cash to the Commission for Relief in Belgium-----	£1,276,956.	2.	7
2. Advances in cash to the Belgian Government-----	1,768,515.	13.	12
3. Assignments and loans to the C. R. B.-----	1,434,619.	15.	4
4. Assignments to the Belgian Government---	1,387,348.	6.	7
5. Restoration of the Ports of Ostend, of Zeebrugge, and of the Belgian Coast-----	1,358,262.	14.	11
6. Interest due on these advances-----	870,978	-	-
Total-----	£8,096,680.	12.	7

This same publication states that the above-mentioned debt has been repaid as follows:

1. By means of a remittance to England of a sum of-----	£1,290,229.	2.	8
on November 20, 1918, deposited to the account of the Belgian Treasury at the Bank of England before the Armistice and consequently carried to Germany's account.			
2. By previous deduction from the English credit of Reconstruction, of £9,000,000—(payment of part of the work effected on the Coast)-----	650,000.	0.	0
3. By reduction granted by England on the price of materials (<i>cessions</i>)-----	333,576.	5.	2
4. By installments during January–February [1922]-----	5,822,875.	4.	9
taken from the sum of installments paid by Germany for "Reparations" account.			
Total-----	£8,096,680.	12.	7

⁹⁷ *Rapport fait, au nom de la Commission Permanente des Finances, des Budgets et des Économies* (Chambre des Représentants, séance du 24 Juillet, 1924).

The Government of the United States is also informed that on December 31, 1924, the Belgian Treasury paid to the Canadian Government the sum of 2,278,558.63 Canadian dollars representing the principal amount of a credit extended by Canada to Belgium in 1919, aggregating 1,762,789.63 Canadian dollars, for the purchase in Canada of Canadian products and merchandize, together with interest at 5½%, amounting to 515,769 Canadian dollars. The agreement under which this loan was made to the Government of Belgium provided that the advances were to enjoy treatment *pari passu* with claims of other Allied and Associated Powers of a similar nature.

The Government of the United States has also received information that the Government of Belgium is paying interest to the Government of Great Britain on the relief advance of £9,000,000 made by the latter Government subsequent to the armistice. A letter from the Secretary of the Treasury to the Belgian Minister at Washington, dated January 18, 1919, referred specifically to the above-mentioned British credit and stated that

“the United States Treasury must take the position that the advances which it has made to your Government for food and relief purposes during this period must receive treatment as favorable as that accorded to advances which may be made to your Government by the British or French Governments for reconstruction purposes.”

As indicated above, the Belgian Minister in Washington informed the Secretary of the Treasury in a letter dated February 5, 1919, replying to the latter's letter of January 18, 1919, from which the above extract is taken, that the Belgian Government agreed that American advances subsequent to the armistice for food and relief purposes should receive as favorable treatment as that accorded to advances by the British or French Governments for reconstruction purposes.

I have the honor to state that, in the light of the foregoing circumstances, I have been instructed by my Government to inquire when it may expect to receive payments from the Government of Belgium on account of its indebtedness to the United States incurred subsequent to the armistice for the purposes set forth in the correspondence above-mentioned, proportionate to the payments which the Government of Belgium appears to have made to other creditor governments on similar account.

I am also instructed to add in this same connection that the Government of the United States would be pleased to have the Government of Belgium make proposals in the near future to the World War Foreign Debt Commission looking to the funding on a mutually

satisfactory basis of the Belgian obligations now held by the United States Treasury which bear interest at the rate of 5% per annum, and which, as the Government of Belgium is aware, are in their present form all overdue or payable on demand (with the exception of obligations in the principal amount of \$2,284,151.40 which mature April 9, 1930).

800.51 W 89Belgium/34b: Telegram

The Secretary of State to the Ambassador in Belgium (Phillips)

[Paraphrase]

WASHINGTON, May 29, 1925—4 p. m.

32. (1) Thomas W. Lamont called at the Department on May 25 to discuss the negotiations for proposed loan of \$50,000,000 from J. P. Morgan and Company to Belgium. After consultation with the President and with the approval of Secretary of the Treasury Mellon and Secretary of Commerce Hoover, I informed Mr. Lamont that the Government of the United States would not look with favor upon any further loans to Belgium until that Government took definite steps in the direction of funding its indebtedness to the United States. I gave Mr. Lamont the substance of our recent note to Belgium and emphasized fact of Belgium's discrimination against us in the matter of post-armistice relief debt. He said that his firm would not make loan if the United States objected. He also read me a cable from his European representative saying that the Belgians had stated that they were unable to take any steps toward funding their indebtedness to the United States until a new Government had been formed and until they had prescribed and passed their budget; and that they thought that they would be able to discuss a refunding arrangement about September. I informed Mr. Lamont that I regarded this prospect as unsatisfactory, that it was merely a repetition of what had taken place in the past, and that this was not the first time that the Belgian Ambassador was going over to discuss situation with his Government. If his Government could now negotiate for and contract a loan for \$50,000,000 with American bankers, it should certainly take up negotiations on the debt to this Government.

(2) You will immediately seek appointment with the appropriate Belgian officials and will make the following oral statement:

The Belgian Government is at present negotiating with American bankers for sale to the American public through them of \$50,000,000 of Belgian bonds. While the Government of the United States does not wish to oppose flotation by Belgium in the American market of loans essential to the financial reconstruction of Belgium, nevertheless

the Belgian Government will appreciate that the Government of the United States has a responsibility which must lead it to see that national interests are protected. Further delay on Belgium's part in funding its indebtedness to the Government of the United States might lead to differences between the two Governments which should be avoided. A settlement is clearly in the interests of both Governments. The Government of the United States will not interpose objection to flotation in the United States of proposed \$50,000,000 loan by Belgium on condition that Belgian Government undertake at once to refund its entire indebtedness to the United States on following principles:⁹⁸

“(a) In accordance with the policy prescribed by the debt funding act and the position consistently maintained by the Government of the United States, this Government looks solely to Belgium for payment of its indebtedness which on May 15, 1925, with principal and accrued and unpaid interest, aggregated over \$480,000,000 and which, with the exception of about \$2,000,000, is all payable on demand. Germany may not be substituted directly or indirectly for Belgium in respect of the pre-armistice debt.

(b) Settlement to be submitted to the approval of Congress, may be made along the lines of the British-American debt funding agreement,⁹⁹ with amortization of the principal of the debt in sixty-two years and annual payments representing interest and installments of principal.

(c) Such postponement or payment of the earlier installments of interest or modification of rates of interest as may be required by the fiscal and economic condition of Belgium.”

No objection will be interposed by the Government of the United States to floating of proposed loan should it receive a communication in writing from the appropriate Belgian officials that Belgium accepts principles set forth in paragraphs (a), (b), and (c) of above statement and will send at earliest possible moment a commission to the United States to negotiate settlement with our Debt Funding Commission.

Settlements on substantially same basis have been reached with Great Britain, Finland, Hungary, Lithuania, and Poland.¹

(3) You may hand to appropriate Belgian officials informal memorandum containing quoted paragraphs (a), (b), and (c) above.

(4) Please cable Department on action taken.

KELLOGG

⁹⁸ Quoted passage not paraphrased.

⁹⁹ *Combined Annual Reports of the World War Foreign Debt Commission, 1922-1926* (Washington, Government Printing Office, 1927), p. 106.

¹ See *ibid.*, pp. 106, 120, 132, 144, and 156.

800.51 W 89Belgium/35 : Telegram

The Ambassador in Belgium (Phillips) to the Secretary of State

[Paraphrase]

BRUSSELS, May 31, 1925—10 p.m.

[Received May 31—7:28 a.m. (?)]

62. Your 32, May 29, 4 p.m. I presented oral and written communications this afternoon at conference with the ad interim Ministers of Finance and of Foreign Affairs. A decision was reached to accept your conditions and they will send me a note tomorrow to that effect. Text will be immediately cabled Department. The Acting Minister of Finance (Mr. Van de Vyvere) said that in view of existing exchange situation the \$50,000,000 loan had become immediate necessity and that he had no alternative, therefore, but to accept required conditions. [He found?] conditions in paragraph (a) hard, and said that there was a public opinion in Belgium which had always distinguished between the war debts and the post-armistice debts. He referred to the negotiations on subject of the war debt which had taken place at Paris with authorized American representatives during peace conference and said that facts of the Belgian situation had then been recognized.² He was fully aware that as the United States had not ratified the Treaty of Versailles it was not legally bound by its terms, but he felt that, at least, morally, negotiations should have been resumed where they had stopped before Belgium should be required to accept certain definite conditions.

I explained in detail impossibility for us to distinguish between war debts and post-armistice debts as well as impossibility of giving Belgium special treatment in her war debts in view of debt-funding arrangement, which we had already concluded with other nations. I pointed out importance of paragraph (c) and said that I felt confident that when the Belgian commission arrived in the United States it would receive the most sympathetic consideration. I dwelt especially on desirability that this commission should proceed with least possible delay. I was assured that it would go forward in July and would certainly be composed of ex-Premier Theunis and Mr. Hautain, Governor of the National Bank.

PHILLIPS

² See paragraph 2 of telegram No. 452, Oct. 21, 1924, 6 p. m., from the Chargé in France, *Foreign Relations*, 1924, vol. II, p. 66.

800.51 W 89Belgium/40 : Telegram

The Ambassador in Belgium (Phillips) to the Secretary of State

BRUSSELS, June 2, 1925—6 p.m.

[Received 9:30 p.m.]

65. The following note has just been received from the Foreign Office:

"Mr. Ambassador: Your Excellency's memorandum of May 31 has received the attention of the Government of the King. In reply I ask Your Excellency to be so good as to communicate to your Government the following:

The Government of the King has confirmed several times its determination to honor its engagements contracted with the United States.

1. As far as concerns the advances granted to Belgium by the Allied and Associated Governments before November 11th, 1918 the Belgian Government considers it its duty to remark that according to the terms of article 232 of the Treaty of Versailles^a Germany is obliged to carry out their reimbursement. This treaty having become a Belgian law, the arrangements agreed to by the Government of the King in order to replace the clause of the Treaty of Versailles which has become void as far as concerns the Government of the United States by reason of its nonratification, will require the approval of the legislative powers.

The Belgian Government cannot help but recall that it only accepted to sign the Treaty of Versailles notably because of the advantages which article 232 accorded to it. Had it been able to foresee that this treaty would not be ratified by all the signatory powers it would have taken measures to have Belgium freed entirely from the sums which she had been required to spend during the hostilities as a result of violation of the treaties of 1839.

The United States not having ratified the Treaty of Versailles the Belgian Government cannot legally make a point of article 232 vis-à-vis the United States. The elements of fact however and the moral and juridical considerations which in 1919 determined the Allied and Associated Powers to accord special advantages to Belgium by reason of her particular situation still retain all their value.

The declarations of the President of the United States during the war on the subject of the complete restoration of Belgium, the constitution [*sic*] developed in the course of the peace negotiations, and which demonstrated the necessity of according to my country a special treatment in satisfaction of its recognized right to such restoration, constitute a right which continues to exist whatever may have been the fate of article 232.

During the progress of the conversations which are about to commence the two Governments should take this into account.

2. The advances granted to Belgium after November 11, 1918 figure already in the table of our public debt. After an accord shall have been arrived at with the American Government on the subject of their consolidation the necessary credits must be provided for in the budget and submitted to Parliament.

^a Malloy, *Treaties*, 1910-1923, vol. III, p. 3419.

Having in mind the benefits of the considerations above exposed (*sous le bénéfice des considérations exposes*), and it being well understood that the sum of \$480,000,000 indicated by the American Government as capital and interest of Belgian debt is subject to verification by the negotiators, the Government of the King adheres in principle to the contents of the memorandum transmitted by Your Excellency May 31 last and engages itself to send to Washington at a time to be fixed by agreement between the two Governments a mission charged to negotiate the consolidation of its debts.

I take this occasion Mr. Ambassador, etc."

I believe that the contemplated oral communication is embodied in this note.

PHILLIPS

800.51 W 89Belgium/41 : Telegram

The Secretary of State to the Ambassador in Belgium (Phillips)

[Paraphrase]

WASHINGTON, June 3, 1925—7 p. m.

35. Your 65, June 2, 6 p. m.

(1) Belgian note is unsatisfactory. On our proposition (a), it leaves the matter in doubt whether the present Government unconditionally accepts it. Article 232, Treaty of Versailles only requires that Germany reimburse Belgium for money borrowed from Allied and Associated Governments and does not in any way relieve Belgium of her primary obligation, and our right to reimbursement from her does not depend, therefore, upon either ratification of or failure to ratify that treaty.

In regard to our proposition (b), the Belgian note does not pledge that Government to negotiate on that basis; it simply says that credits must be submitted to Parliament. All that we ask is that negotiations should be conducted on basis of the three principles set forth in Department's 32, May 29, 4 p. m. Department presumes that any settlement recommended by the negotiators will have to be submitted to Belgian Parliament for ratification as recommendations of our World War Foreign Debt Commission will have to be submitted to Congress.

(2) Subject to paragraph (3) below, you will make following communication to Belgian Government:⁴

"The Government of the United States has received the communication of blank concerning the indebtedness of Belgium to the United States. It is noted that although the Government of the King adheres in principle to the contents of the memorandum of May 31, nevertheless attention is drawn to the pre-armistice advances made

⁴Memorandum not paraphrased.

by the Government of the United States to Belgium and it is stated that the conversations which are about to commence should take into account the position set forth in paragraph one of the communication under acknowledgment concerning this matter. It is further noted that, although the Belgian Government does not consider that it can legally make a point of Article 232 vis-a-vis the United States, the contention is advanced that Belgium has 'a right which continues to exist whatever may have been the fate of Article 232.'

"As stated in paragraph (a) of the memorandum of May 31, the Government of the United States continues to look solely to Belgium for payment of this indebtedness, and cannot consent that Germany be substituted directly or indirectly for Belgium in respect of the pre-armistice debt. The Government of the United States is in doubt whether the Belgian Government unconditionally accepts the proposition contained in paragraph (a) of the memorandum of May 31, and does not find in the communication of the Belgian Government a pledge that the Government of Belgium will negotiate on the basis set forth in that memorandum. The Government of the United States desires more express assurance on this point.

"The Government of the United States has also noted that the Belgian Government engages itself to send to Washington at a time to be fixed by agreement a mission charged to negotiate a settlement of the indebtedness of Belgium, and understands that this mission could go forward in July. The Government of the United States would be glad if negotiations could commence at Washington at a date in July that may be convenient to the Belgian Government."

(3) If you think preferable and can obtain satisfactory communication in place of that quoted in your telegram No. 65, you may proceed on that line. It is essential, however, to receive unequivocal statement from Government of Belgium (eliminating conditions stated in its note as quoted in your telegram) that it accepts and will negotiate on basis of principles set forth in memorandum of May 31 (the capital and interest of the debt to be subject to verification) and that the Belgian mission will commence negotiations in Washington next month.

Department will await your reply before taking any action on loan sought by Belgium from J. P. Morgan and Company.

KELLOGG

800.51 W 89Belgium/43 : Telegram

The Ambassador in Belgium (Phillips) to the Secretary of State

[Paraphrase]

BRUSSELS, June 5, 1925—10 p. m.

[Received June 5—9:10 p. m.]

70. Department's No. 35, June 4 [3], 7 p. m. At two long conferences today, one in the morning, the other in the afternoon, I presented your position strongly to the ad interim Ministers of For-

sign Affairs and Finance. At last the Ministers decided to send you a clear and explicit statement of unconditional acceptance of paragraph (a) and expression of their willingness to negotiate on basis of the three paragraphs of May 31 memorandum.

In view of existing public opinion that in some way Belgium has been relieved of her war debt, the acting Minister of Finance (Mr. Van de Vyvere) does not feel that he is in a position to close door in forthcoming negotiations to presentations of circumstances surrounding Belgium's case. For this reason their Belgian memorandum is in nature of an explanation of statements in earlier communication and I think may be accepted as recession from former position. Memorandum seeks to make clear that although in Belgium's opinion the circumstances surrounding negotiations in 1919 are deserving of consideration in forthcoming negotiations, Belgium does not assert that they constitute a right or a legal claim.

As the Ministers preferred to have their reply of June 2 remain, I handed them the memorandum contained in your No. 35, giving it date of June 4; I have received in reply following memorandum dated June 5, which I hope will be satisfactory to you.⁵ Please telegraph me your decision.

The Belgian Government wishes to dissipate doubt as to its unconditional acceptance of the proposal contained in paragraph (a) of the memorandum of the 31st of May.

Its object in presenting the arguments as contained in paragraph 1 of the note of June 2 is not with a view to maintain the substitution of Germany for Belgium as debtor nor to contest that Belgium alone is accountable to the United States for the payment of its debt. The statements were made for the purpose of assuring to the negotiators the opportunity of bringing out all the circumstances in their case. Belgium believes that these circumstances are worthy of consideration but does not pretend that this constitute[s] a right or a legal claim.

Belgium therefore means to give an express assurance that it will negotiate on the bases of paragraphs (a), (b) and (c) proposed in the memorandum of May 31st.

The Belgian Government undertakes to recommend for the approval of the legislative power the arrangements which it hopes sincerely will result from these negotiations.

PHILLIPS

800.51 W 89Belgium/43 : Telegram

The Secretary of State to the Ambassador in Belgium (Phillips)

[Paraphrase]

WASHINGTON, June 6, 1925—11 a.m.

39. Your No. 70, June 5, 10 p.m. The Belgian reply is satisfactory except that it does not cover sending of a mission (see last paragraph)

⁵ Memorandum not paraphrased.

agraph memorandum Department's No. 35, June 3, 7 p.m.). If the Belgian Government gives you written assurance that it will send a mission in July to negotiate a settlement, you may state that the Government of the United States considers Belgium's assurances satisfactory. Immediate answer is desired so that we can notify Morgan and Company on Monday.

KELLOGG

800.51 W 89Belgium/44 : Telegram

The Ambassador in Belgium (Phillips) to the Secretary of State

BRUSSELS, June 7, 1925—3 p.m.

[Received June 8—9:45 a.m.]

72. Your 39, June 6, 11 a.m. As the Belgian Government had already expressed their intention to send the mission to Washington in July they were entirely ready to give the necessary assurance in writing.

Theunis being still absent in Italy the actual date in July of his departure for the United States is not definitely settled. However it is certain that the negotiations can begin next month.

The written statement received and dated today is as follows:

"The Government of the King has taken note of the desire expressed by the Government of the United States in its note of June 4 last with a view to opening the negotiations in Washington in July next at a date which would be agreeable to the Belgian Government. The Government of the King is in accord as to the commencing of the negotiations next month and it will come to an understanding shortly as to the date upon which it will be convenient for the Belgian commission to go to Washington."

I have informed the Foreign Office that the Government of the United States considers Belgian assurance as satisfactory.

PHILLIPS

800.51 W 89Belgium/44 : Telegram

The Acting Secretary of State to the Ambassador in Belgium (Phillips)

[Paraphrase]

WASHINGTON, June 7, 1925—6 p.m.

40. Your 72, June 7, 3 p.m. Department has just given to the press information that Belgian Government will send mission in

July to take up debt negotiations.⁶ We have also informed Morgan that Department has no objection to the \$50,000,000 loan.

GREW

Czechoslovakia

800.51 W 89Czechoslovakia/86a

The Secretary of State to the Minister in Czechoslovakia (Einstein)

No. 252

WASHINGTON, April 4, 1925.

SIR: With reference to previous correspondence regarding the indebtedness of Czechoslovakia to the United States, the Department transmits herewith the text of a note to the Czechoslovak Government which you are instructed to present at the first available opportunity.

Please inform the Department by telegraph of the date of the note which you present pursuant to this instruction.

I am [etc.]

FRANK B. KELLOGG

[Enclosure]

Text of Note To Be Presented to the Czechoslovak Government

Under instructions from my Government, I have the honor to refer to certain correspondence exchanged in 1919 between a representative of the Government of Czechoslovakia and a representative of the Treasury Department of the United States regarding the conditions under which the Government of the United States was prepared to make further advances to the Government of Czechoslovakia, that is to say, to a letter dated May 19, 1919, from Mr. Norman H. Davis, Finance Commissioner of the United States, to Mr. Edouard Beneš, Minister of Foreign Affairs of Czechoslovakia, and to the reply from Mr. Beneš dated June 26, 1919.

The letter from Mr. Davis, dated May 19, 1919, was as follows:

"The Government of the United States of America has made advances to the Government of your country for relief and reconstruction purposes, and the question of further advances is under consideration.

"The Secretary of the Treasury desires me to express to you his opinion that, in view of the circumstances under which, and the purposes for which, these advances are made, it is proper that your Government should agree not to take any action by way of legislation, concessions, or agreements which might put any of the Allied or As-

⁶ The Belgian commission sailed from Cherbourg, France, on July 30. For the opening of negotiations, text of the agreement signed August 18, and other relevant material, see *Combined Annual Reports of the World War Foreign Debt Commission*, pp. 166-182.

sociated Powers or their nationals in a more favorable position than the United States government or its nationals, or which will discriminate against the nationals of the United States.

"I shall be glad to hear from you, so that I may communicate your reply to the Secretary of the Treasury."

The reply from Mr. Beneš, dated June 26, 1919, was as follows:*

"I beg you to excuse my involuntary delay in replying to you. I sent your letter to Prague, for the information of my colleagues of the Cabinet, especially the Minister of Commerce, and received no immediate reply.

"For my part, I can assure you that our Government wholly shares your point of view on the question of which you spoke in your letter of May 19, 1919. The Czechoslovak Government recognizes with the utmost satisfaction the great services, both financial and economic, rendered it by the Government of the United States. It has no intention whatever of favoring one of our Allies to the detriment of another or of taking measures vis-à-vis one which could be unfavorable to another. It intends to continue the same policy—in the field of economics and finance—that it practiced during the war, namely, of having the same general attitude toward all our allies.

"Please accept, Sir, the expression of my highest sentiments."

In view of the understanding set forth in the above correspondence regarding the treatment to be accorded to the advances made by the Government of the United States to the Government of Czechoslovakia, it is with no little surprise that the Government of the United States has learned that the Government of Czechoslovakia, although it has made no corresponding proposal to the Government of the United States, has agreed to repay to the Governments of Denmark, France, Great Britain, Holland, Norway, Sweden and Switzerland within five years, with interest at five per cent., the relief indebtedness of Czechoslovakia to those Governments. My Government is also informed that the Government of Czechoslovakia has agreed to pay separately to each of the above-mentioned Governments the amount of interest, if any, calculated at the rate of six per cent. per annum and accumulated semi-annually, which on January 1, 1925, was due and unpaid, and to constitute the payments to be made pursuant to these arrangements a first charge on receipts accruing to the Government of Czechoslovakia by way of compensation, reparation or indemnity from ex-enemy Governments, other than receipts by way of restitution in kind, and subject to any charges already created in respect of previous loans.

The Government of the United States has accorded the most considerate treatment to the Government of Czechoslovakia in connection with the indebtedness of the latter to the United States.

* A translation has been substituted by the editor for the French text which here followed.

Although as early as April 25, 1922, I had the honor to inform the Government of Czechoslovakia of the creation of the World War Foreign Debt Commission and of the desire of that Commission to receive any proposals or representations which the Government of Czechoslovakia might wish to make for the settlement or refunding of its obligations to the Government of the United States,⁸ it was not until May, 1923, that representatives of the Government of Czechoslovakia commenced negotiations with the World War Foreign Debt Commission in Washington, and although nearly two years have elapsed since the visit of the Czechoslovak Debt Commission,^{8a} no proposals have been received by the World War Foreign Debt Commission for either the settlement or the refunding of the indebtedness of Czechoslovakia to the United States which as of November 15, 1924, amounted to \$91,879,671.03 in principal amount and \$23,648,768.93 in unpaid interest, a total of \$115,528,439.96. With the exception of the sum of \$9,376,689.69, the principal amount of the indebtedness of Czechoslovakia to the United States was incurred entirely for relief purposes, including the repatriation of Czechoslovak troops from Siberia, and among the obligations held by the United States Treasury is a relief bond, Series "A" 1920, due January 1, 1925, identical in terms with the relief bonds held by the Governments of Denmark, France, Great Britain, Holland, Norway, Sweden and Switzerland, which were the subject of the recent agreement referred to above.

Under the circumstances, I am therefore instructed to state that the Government of the United States cannot agree that the Government of Czechoslovakia should make no payments to the United States on account of its indebtedness while making payments to other Governments on account of indebtedness to them incurred by Czechoslovakia for similar purposes, and that the Government of the United States will not acquiesce in any discrimination against the United States in favor of other creditor governments either through agreements such as those recently concluded or otherwise. My Government therefore would be pleased if it could receive from the Government of Czechoslovakia an appropriate proposal for the payment or refunding of the obligations of the Czechoslovak Government now held by the United States Treasury which, except for an obligation in the principal sum of \$1,962,145.37, maturing June 30, 1925, are all payable on demand either in terms or because over-due.

⁸ See telegram No. 1, Apr. 21, 1922, to the Ambassador in France, *Foreign Relations*, 1922, vol. I, p. 399.

^{8a} For appointment of the Commission, see *Foreign Relations*, 1923, vol. I, pp. 876 ff.

800.51 W 89Czechoslovakia/90 : Telegram

The Minister in Czechoslovakia (Einstein) to the Secretary of State

PRAGUE, May 2, 1925—1 p. m.

[Received 4:55 p. m.]

12. Your instruction number 252, April 4th. Presented note to-day.⁹ Dr. Beneš denies any intention of discriminating against the United States by arranging payment of so-called Nansen relief bonds and believes such impression is based on misunderstanding. Will write me in explanation.

EINSTEIN

800.51 W 89Czechoslovakia/90 : Telegram

The Secretary of State to the Minister in Czechoslovakia (Einstein)

WASHINGTON, May 5, 1925—4 p. m.

11. Your 12, May 2, 1 P. M. and previous correspondence regarding indebtedness of Czechoslovakia.

Should you find it necessary to discuss this matter with Dr. Beneš, you should bear in mind first that his letter of June 26, 1919, pledged his Government not to discriminate against the United States; second that the Czechs agreed to the London arrangement for refunding the relief credits extended by each Government except the United States without informing or consulting this Government or offering similar terms to it; third, that this action is in fact discrimination against the United States; fourth, that in addition to the foregoing the United States holds a Czech relief bond, due and payable January 1, 1925, identical in terms with those refunded under the London agreement; fifth, that among the terms of this bond is an undertaking by Czechoslovakia that it will make no payment in respect of any such relief bond "unless a similar payment shall simultaneously be made upon all the obligations of said series issued by the Republic of Czechoslovakia in proportion to the respective obligations of said series". Payments under the London agreement therefore violate this specific assurance.

Belgium and Rumania have also similarly discriminated against the United States and this Government has made vigorous representations through the Embassy at Brussels and the Legation at Bucharest.¹⁰

KELLOGG

⁹ Note dated April 30.

¹⁰ See pp. 107 and 167.

800.51 W 89Czechoslovakia/02 : Telegram

The Minister in Czechoslovakia (Einstein) to the Secretary of State

PRAGUE, May 16, 1925—2 p. m.

[Received 3:30 p. m.]

16. Your number 11, May 5, 4 p. m.

1. Doctor Beneš admitted that he had forgotten his letter of June 25 [26], 1919; if he had remembered this he would have negotiated differently with Great Britain.

2. He reaffirms the intention of Czechoslovakia to honor all her engagements.

3. On his return from Geneva where he goes tomorrow he will take up the debt question with the Minister of Finance and give me early answer. My impression is that he will settle relief bonds on the same terms as extended to other governments.

EINSTEIN

800.51 W 89Czechoslovakia/101 : Telegram

The Acting Secretary of State to the Minister in Czechoslovakia (Einstein)

[Paraphrase]

WASHINGTON, July 6, 1925—8 p.m.

26. On July 6 the Czechoslovak Chargé, Dr. Lípa, conversed at the Department with Mr. Richardson, Acting Chief of the Division of Western European Affairs. Dr. Lípa stated that he was under instructions from his Government to say that it had been giving consideration to your note of May 2 regarding indebtedness of Czechoslovakia to the United States and that his Government had in principle agreed to meet all obligations toward this Government. Specifically, they agree to recognize the sum of approximately \$80,000,000 verified by commission which came to Washington in 1923; to negotiate in immediate future for verifying of balance of about \$11,000,000 that is still in dispute between Czechoslovakia, War Department, and Shipping Board, the verified amount on account of these items to be added to the already admitted \$80,000,000; and to acknowledge the total as the sum of indebtedness of Czechoslovakia to the United States.

According to the Chargé, the Government of Czechoslovakia is prepared to negotiate at once conditions of payment of the \$80,000,000 verified, and to do so either through the Czechoslovak Legation in Washington or through a special mission, whichever the Government of the United States might deem preferable.

Dr. Lípa stated that above points would be incorporated in formal communication to be addressed to this Government within a week or so, and he wishes to ascertain if they would constitute a basis satisfactory to the World War Foreign Debt Commission upon which to begin negotiations, as his Government does not wish to send a formal communication in sense of the foregoing if the conditions are unacceptable.

The Department has communicated substance of Chargé's statement to Treasury Department for its comment, and would be pleased to have you report by telegraph any information discreetly available on actual intentions of Government of Czechoslovakia.

GREW

800.51 W 89Czechoslovakia/102 : Telegram

The Minister in Czechoslovakia (Einstein) to the Secretary of State

PRAGUE, July 11, 1925—1 p.m.

[Received 2:50 p.m.]

37. Your 26, July 6, 8 p.m. Dr. Beneš confirmed statement of Czechoslovak Chargé d'Affaires; other nations having expressed their wish to negotiate debt settlement Czechoslovakia no longer regards itself as obligated to them and wants to proceed independently to effect debt settlement. Dr. Beneš reported he personally favored beginning immediate payments but his view was opposed by Minister of Finance. Note regarding debt settlement would come up for final decision of Cabinet next Tuesday and would be communicated to the Legation before the end of the week.

EINSTEIN

800.51 W 89Czechoslovakia/99 : Telegram

The Secretary of State to the Minister in Czechoslovakia (Einstein)

WASHINGTON, July 16, 1925—5 p. m.

28. Your 37, July 11, 1 P. M. On July 10 the following memorandum was handed to Czechoslovak Chargé:

"The World War Foreign Debt Commission would be glad to negotiate upon the settlement of the entire Czechoslovak debt to the United States with a commission from Czechoslovakia having due power to negotiate and conclude a settlement. Arrangements could be made in the debt settlement for an appropriate adjustment of any part of the total indebtedness not now admitted by Czechoslovakia to be due. There is no reason, however, why a debt settlement need await a verification of the total since this is simply a mechanical

matter of auditing the accounts, and any debt settlement should cover the entire debt whatever it is ultimately determined to be."

Please keep Department informed by telegraph of further developments.

KELLOGG

800.51 W 89Czechoslovakia/104: Telegram

The Secretary of State to the Minister in Czechoslovakia (Einstein)

[Paraphrase]

WASHINGTON, July 21, 1925—6 p. m.

29. Department's July 16, 5 p. m. On July 20 the following informal memorandum was left at Department by Czechoslovak Chargé:¹¹

"The Czechoslovak Minister of Foreign Affairs, Dr. Eduard Beneš, thanks Secretary of the Treasury Mellon, as the chairman of the World War Foreign Debt Commission, for his communication.

The Czechoslovak Government is desirous of entering negotiations to cover the entire debt, and at the same time to verify any part thereof not yet admitted to be due, so that the final settlement would cover the entire debt. It is prepared to commence negotiations upon the settlement of the debt question with the United States of Belgium, France, and Italy. A notification as to whether or not such a time would be acceptable is therefore requested.

An official reply to the note of the United States Government will be dispatched about the coming Tuesday or Wednesday at the latest."

Today an informal memorandum was handed the Czechoslovak Chargé stating that as far as a settlement with this Government is concerned there is no connection between the indebtedness of Belgium, France, Italy, and Czechoslovakia to the United States, and that for that reason it would not be acceptable if negotiations looking to the funding of Czechoslovakia's indebtedness to the United States were not commenced until indebtedness of the other three Governments to the United States had been settled. On the contrary it was stated that commission to negotiate settlement of indebtedness of Czechoslovakia should, as indicated in the Chargé's conversation with Mr. Richardson on July 6, 1925, come to Washington in very near future, the earnest hope being expressed that initiation of negotiations at Washington would take place not later than first week in September.

KELLOGG

¹¹ Memorandum not paraphrased.

800.51 W 89Czechoslovakia/105 : Telegram

The Minister in Czechoslovakia (Einstein) to the Secretary of State

PRAGUE, July 23, 1925—5 p. m.

[Received July 24—12:18 a. m.]

41. Your 29, July 21, 6 p. m. Have received 15-page note signed by the Minister for Foreign Affairs.¹² In this, after reiterating statements already transmitted, Czechoslovak Government:

1. Gives formal assurance of recognizing \$80,234,000 as its debt to the United States.

2. In accordance with the desire of the American Government it will proceed either to verify the unconfirmed balance or else adjudicate this in round figures without verification.

3. The Czechoslovak Government is not at present in a position to make a concrete proposition [as?] regards the payment or funding of the debt. In order, however, to show its intention to fulfill its obligations and to carry these out immediately it proposes to the United States Government without prejudice to other eventual decisions, to insert at once in the 1926 budget the sum of \$2,500,000 to be paid during 1926 as a first installment on their recognized debt of \$80,234,000.

Not knowing the financial situation in 1927, it cannot yet state what sum will be reserved for the next payment in 1927. The payment effected in 1926 will, however, be followed regularly by other annual payments. It thereby wishes to give concrete public notice [of] its intention to carry out its obligations. It hopes that the United States Government will likewise show good will. The Czechoslovak Government does not wish at once to ask for a moratorium but would be obliged to do so if the negotiations with the Debt Commission at Washington were to impose annual charges greater than its actual situation could bear.

4. The Czecho[slovak] Government does not submit any proposed basis regarding its debt to the United States:

(a) Because the total sum has not been definitely established, although this need not prevent negotiations nor the payment of installments.

(b) The Czechoslovak Government is not yet in a position to determine with certainty its actual or future financial situation; it believes that all negotiations for the remittance war and post-war debts should be based on the capacity to pay. It does not seek to assimilate nor to link its indebtedness with the different obligations of Allied or enemy states and recognizes that the United States Government regards the Czechoslovak debt as an obligation of a different nature from these.

¹² Not printed.

(c) It believes that [as] the United States Government has adopted the principle of proceeding with debt settlement in accordance with the particular situation in each debtor state, the Czechoslovak Government has no wish to appeal to the United States Government by the example of other states but desires to bring its attention to its own flagrant situation. A brief statement of this follows. It says that if in view of these circumstances we must prepare for a settlement of our debt to the United States we shall find ourselves "singularly embarrassed." There follows an account of the financial sacrifices made by Czechoslovakia since the war in stabilizing exchange and in taxation. The hope is expressed that Czechoslovakia will not be penalized for these efforts which have assisted European reconstruction but will be able to enjoy the application of the same principles which underlay the reconstruction of Austria,¹³ of Hungary,¹⁴ and the Dawes Plan.¹⁵

For all these reasons it is difficult for the Czechoslovak Government to submit to the United States Government a full proposal for the settlement of its debts, instead it asks the United States Government to express its desires.

To prove the wish to carry out its obligations, Czechoslovakia will begin the payment of the debts even before the settlement is agreed upon unless future negotiations should otherwise provide. The rest can be left to the generosity of the American Government for whose services gratitude is expressed. The Czechoslovak Government is ready to negotiate the question either by diplomatic channels or by a special commission in accordance with the preference of the United States Government. In order, however, to give full information and the necessary instructions to the Czechoslovak delegates, the United States Government is asked to take into consideration the ideas expressed in this note and if possible reply to the suggestions submitted.

Text of the note with comments will be sent by pouch.

EINSTEIN

800.51 W 89Czechoslovakia/110 : Telegram

*The Acting Secretary of State to the Minister in Czechoslovakia
(Einstein)*

WASHINGTON, August 27, 1925—4 p. m.

37. Your despatch 894, July 28.¹⁶ Please present the following note and telegraph date it bears:^{16a}

¹³ See *Foreign Relations*, 1922, vol. I, pp. 613 ff.

¹⁴ See *ibid.*, 1924, vol. II, pp. 325 ff.

¹⁵ See Great Britain, Cmd. 2105 (1924): *Reports of the Expert Committees Appointed by the Reparation Commission*.

¹⁶ Not printed.

^{16a} The Department was informed by telegram No. 49, Aug. 31, 2 p. m., that the note had been presented that day (file No. 800.51W89Czechoslovakia/113).

"Under instructions from my Government, I have the honor to acknowledge the receipt of your note of July 22^{16b} in reply to my note of April 30, 1925, concerning the indebtedness of Czechoslovakia to the United States.^{16c}

My Government notes that the Czechoslovak Government formally acknowledges its indebtedness in the principal amount of \$80,234,808.02 and that it is ready to proceed immediately to a verification of settlement in respect of the remaining sum, the principal amount of which is \$11,644,863.01. My Government considers that, since the amount in question is but a relatively small part of the total indebtedness of Czechoslovakia to the United States, a settlement might be made in respect of the total principal sum of \$91,879,671.03, and in respect of unpaid interest, and that any items in dispute which may thereafter be established not to be due to the Government of the United States may be suitably credited in a manner to be specified in the debt funding arrangement.

My Government has also noted the views expressed in regard to the fiscal and economic condition of Czechoslovakia. I am authorized to assure you that the World War Foreign Debt Commission will be prepared to give due consideration to such data as the representatives of Czechoslovakia may wish to present in that regard.

With respect to the suggestion that the Czechoslovak Government pay to the United States in 1926 the sum of \$2,500,000 as a first installment on the acknowledged debt, I am instructed to say that my Government, especially in view of the settlements made by Czechoslovakia with other creditor governments in disregard of the agreement between Czechoslovakia and the United States as set forth in my note of April 30, 1925, could not agree to postpone a settlement or make only a partial settlement of Czechoslovakia's indebtedness. My Government feels confident that a suitable basis of settlement in respect of Czechoslovakia's indebtedness to the United States can readily be reached at the present time. In this connection, it may be pointed out that the service of Czechoslovak foreign loans already floated calls for annual payments larger than those which would be required under a settlement of the indebtedness to the United States along the line of the settlements already made between the Government of the United States and other debtor Governments. It may further be pointed out that, according to the basis of such settlements, the annual payments due on the entire indebtedness of Czechoslovakia to the United States would not be more than approximately one percent. of the total present Czechoslovak budget. The Government of the United States accordingly considers that the Czechoslovak Government, if it can assume the obligation to pay the service of large private loans over a considerable period of years, can forecast its future financial condition sufficiently well to enable it to enter into a suitable agreement with the World War Foreign Debt Commission.

My Government, therefore, as indicated in my note of April 30, 1925, expects the Czechoslovak Government promptly to take suitable action looking towards the settlement of its indebtedness to the United States, and would be glad if the Czechoslovak Government

^{16b} Summarized in the Minister's telegram No. 41, July 23, 1925, *supra*.

^{16c} See enclosure to instruction No. 252, Apr. 4, to the Minister in Czechoslovakia, p. 122.

would send to the United States at its earliest convenience a Commission duly authorized to enter into a settlement of the entire amount of the debt in question."

GREW

800.51 W 89Czechoslovakia/119

The Czechoslovak Chargé (Lipa) to the Secretary of State

The Chargé d'Affaires ad interim of the Czechoslovak Republic presents his compliments to His Excellency, the Honorable Secretary of State, and with reference to his note of September 3, 1925, No. 938-25 [937-25],¹⁷ has the honor to announce that the Commission which has been sent by the Czechoslovak Government to the United States in connection with the settlement of Czechoslovakia's indebtedness to this country consists of the following members:

Dr. Vilém Pospíšil, Head of Commission;
Mr. Jan Kučera, from the Ministry of National Defense;¹⁸
Dr. Karel Brabenec, from the Ministry of Finance;

and of financial experts:

Dr. Eugen Lippansky, from the Ministry of Finance, and
Mr. Zikmund Konečný, from the Ministry of Foreign Affairs.

This Commission will sail for the United States from Cherbourg on the steamship *Berengaria* on September 26, 1925.¹⁹

WASHINGTON, September 21, 1925.

France

800.51 W 89France/44: Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, December 8, 1924—6 p.m.

[Received December 9—4:17 a.m.]

550. Had most satisfactory talk at lunch today with Premier Herriot, Minister of Finance Clémentel, and M. Bunau Varilla, owner of *Le Matin*. Herriot believes that France's debt to us should be funded,

¹⁷ Not printed.

¹⁸ By a note dated September 23 from the Czechoslovak Chargé, this line was corrected to read, "Mr. Karel Kučera, Assistant General Director of the Banking Office of the Czechoslovak Ministry of Finance." (File No. 800.51 W 89 Czechoslovakia/120.)

¹⁹ For negotiations with the World War Foreign Debt Commission and text of agreement signed Oct. 13, 1925, see *Combined Annual Reports of the World War Foreign Debt Commission*, pp. 193-204.

and that in the circumstances question of reduction should be avoided. He said that precipitate action, however, would be dangerous and that it would be necessary beforehand to prepare a healthy public opinion. This attitude highly satisfactory in my opinion, as until today I had feared that in order to consolidate his position Herriot might hurry negotiations too much. It was also in my mind that Ambassador Jusserand before leaving Washington might endeavor to press matters to a conclusion. A greater consideration than need for haste is danger of an adverse vote in Parliament.

Premier stated that he would in near future submit to me for my suggestions and criticisms plan for debt funding having Clémentel's approval. He said that if you found plan feasible in principle even with modifications, then manner of negotiating further could be considered. He feels that there are manifest advantages in proceeding in this way in matter. He was uncertain as to British attitude but wished me to tell you that as result of discussions with Austen Chamberlain²⁰ during latter's recent visit to Paris they had reached cordial agreement regarding many points.

HERRICK

800.51 W 89France/46 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, December 30, 1924—7 p. m.

[Received December 30—6:55 p. m.]

614. My 550, December 8, 6 p. m. Although Herriot is still indisposed I saw him at his home today and he handed me note regarding the state of French public opinion relative to the French debt to the United States which Clémentel had drawn up. The note suggests a complete moratorium for 10 years, no interest for the following 10 years, and one-half percent interest after that until end of amortization 90 years after first payment.

These terms appear so unacceptable to American public opinion that I shall not cable text of note but shall forward it by pouch unless otherwise instructed by Department. Although note seems inadequate even as basis for negotiation, I shall, however, confer with Herriot and Clémentel as they originally suggested, unless Department instructs otherwise, and shall endeavor to persuade them to make more favorable proposal.

Herriot showed me copy of a cable he had sent to Ambassador Jusserand directing him to point out to you that Clémentel's inven-

²⁰ British Secretary of State for Foreign Affairs.

tory regarding the financial situation in France affirmed responsibility of France for her debts in three different places. In view of fact that the editor of the Paris edition of the *Herald* told me that he had inadvertently omitted mention of these three statements referred to, you might think it advisable to give some publicity to Jusserand's explanation.

HERRICK

800.51 W 89France/50a : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, December 30, 1924—8 p. m.

493. Extracts from statement of so-called "balance sheet of France" issued by Finance Minister Clémentel²¹ has [have] been given wide publicity in press and have caused most unfavorable impression. It would appear that Clémentel endorses a policy not in accord with the statements heretofore made to you as reported in your letter of December 12th,²² or with the statements made to the World War Foreign Debt Commission by M. Parmentier. For instance, the report is said to contain the following:²³

"This technical exposition of the elements which constitute our debt to the United States and Britain doesn't seem, however, sufficient to justify a brutal addition to our liabilities of the sums which it seems to represent.

"The question of a settlement of our debts to Britain and America has just raised the general problem of interallied debts, an examination of which has not yet been seriously taken up because of the uncertainty existing from a lack of accord among the Allies on ways and means of the payment of reparations by Germany. . . .²⁴ If we abandon the juridical plane and look on the matter from the higher view of cooperation and fairness, strict justice would seem to demand a general pooling of war expenditures and their allotment among the allied States proportionately to the riches of each one, and without taking count of the particular engagements which the necessities of the moment imposed. . . .²⁴ at least France could hope that the rank she occupied on the long list of sorrows and devastations would give her the right to legitimate concessions in the domain of compensations.^{24a}

If the abstention of our principal debtor has not yet permitted us to undertake a settlement, for which we first hoped, nevertheless we cannot consider the possibility of assuming the burden of annual

²¹ *Inventaire de la Situation Financière de la France au Début de la Treizième Législature, présenté par M. Clémentel, Ministre des Finances* (Paris, Imprimerie Nationale, 1924).

²² Not printed; see the Ambassador's telegram No. 550, Dec. 8, p. 132.

²³ *Inventaire*, pp. 72-74.

²⁴ Omission indicated in the original telegram.

^{24a} Omission which follows is indicated in the original telegram.

payments which may be fixed until we have first completed the work of reparation of the damages which our devastated regions suffered, and until the payments due us under the peace treaty have created for us the necessary resources.²⁵

France doesn't intend to repudiate any contracts she has made, and her signature always will be held sacred. But she is convinced that an appeal to the sentiments of justice which grouped so many nations around her in the war will not be in vain, and she is convinced that her allies and friends will respond to the hopes she places in their conscience and their sentiments of justice and solidarity."

M. Clémentel is also reported as advancing the argument that France should receive due compensation for the fact that her soil was the common battle ground; that inasmuch as the Governments of Britain and the United States collected large sums in taxes by virtue of expenditures which France made within their borders, the total of these taxes should be deducted from the French debt; and that advances made by France to her Allies of some fifteen billion francs should be taken into consideration. France's debts to Great Britain and the United States are spoken of as so-called political debts.

2) Senator Reed, of Pennsylvania, whose friendship for France is well known, discussed the Clémentel statement in the Senate yesterday. After stating the amount of the advances to France, Senator Reed pointed out that in order to pay the current interest which French tax payers should have paid, we have taken from our tax payers approximately eight hundred million dollars in the last 6 years. He said:

"We have a full understanding of France's difficulties. We understand how hard it is for her and for Italy and for Belgium and these other countries to collect what is coming to them from Germany, and that is why our people have not wished us to press unduly for the payment of these foreign debts; but the debtor nations have taken no steps toward refunding the debts, they have paid no interest upon it, and they have not even given authority to any of their official representatives to come to any terms with our country toward refunding.

Mr. Parmentier came here in 1922 absolutely naked of authority to come to any settlement, or even to recommend any settlement to his own Government as far as we were able to learn. The French ambassador—Mr. Jusserand—has done the best that his great talent enables him to do, but he is without authority. He has done much to keep the situation placid. He deserves the gratitude of his country to an extent that I believe few of his own countrymen as yet understand, because his efforts have gone far toward preventing this question from becoming acute. But now, Mr. President, from France itself, and from Paris, and from the cabinet of the present administration, comes a step which our people can not fail to regard as being some evidence of an official intention to repudiate that war-time

²⁵ Omission which follows is indicated in the original telegram.

debt—the publication of a balance sheet, listing the obligations of the French Republic, that absolutely omits the debt to America or the debt to Great Britain incurred during the time of the war—and I do not believe that the United States Senate ought to take an adjournment after the publication of that balance sheet without some voice being raised in protest against it.

I make no threats. I do not believe that anyone in the Senate desires to make any threats. I know that I speak wholly out of friendship for France, but with an acute realization of the fact that American taxpayers are paying every day a debt that France owes. France must be told by her friends that her inaction in this matter throughout the past 5 years has puzzled those of us who look toward her most affectionately, and she should be told that this publication of last week has alarmed her friends and alarmed them very gravely. France must be made to see—and when I speak of France I speak of her because this publication comes from the French ministry, although what I say applies as well to the other countries that are still in the same position—that her present course can result only in a chilling of that affection that she has found to exist here in America throughout the past decades. It can have only that result, Mr. President, and she must be told it by her friends, and she must be told that each day of delay in achieving a refunding of that debt makes it more difficult to grant her leniency in terms of payment. Her taxpayers deserve consideration. Their sufferings must be remembered, and the terms of payment must take into account the difficulties of payment on her part, but each day that she waits makes that more difficult of achievement. And, finally, she must be told by her friends that future French loans in America would be made impossible by a repudiation of the existing debt.”

3) In reply to an inquiry from one of the correspondents at the morning press conference yesterday, I pointed out, not for quotation, that

“What Mr. Clémentel had said was not an official communication to this Government; that it had not been communicated to this Government directly or indirectly. So far as its communications to us were concerned the French Government had never suggested that it repudiated its obligations or asked for their cancellation. On the contrary the French Government had always stated to us that it expected to pay although it had stated its difficulties in arranging for payment and that it would like to have easy terms. Only recently the French Ambassador had stated that France did not ask for a cancellation of its debt and when the French Commission was here some time ago, headed by Mr. Parmentier, while they were not ready to make a funding proposition they did not ask that the debt should be cancelled or repudiate its obligations. So it is my understanding that France acknowledges her debt and intends to pay. While the United States does not wish to be oppressive, we recognize no grounds in law or equity, (there can of course be no question of our legal position), why the debt should be reduced or cancelled.

The attitude of the American Government has been made clear again and again in official pronouncements. These statements had

been made by the President himself. This Government had always opposed the cancellation or an international conference which would bring our debt into discussion. An analysis of the manner in which the debt was incurred would show that our position was entirely equitable. After our army went to Europe there were vast purchases in France and large obligations incurred by our Government to France which were set off against the indebtedness owed by France to us. Besides enormous sums lent France during the war an additional billion dollars was lent her after the Armistice, exclusive of the \$400,000,000 for purchase of surplus army supplies after the war. It would be a very serious mistake not to recognize our debt and provide for its discharge as international credit should be maintained.

The United States would not consent to any arrangement for the pooling of our debt. This Government regards the debt question as a matter for Congress, and a Commission was formed for funding the debts owed to the United States."

[Paraphrase.] 4) While this Government has not received an official communication of the Clémentel statement, it has nevertheless been widely published and cannot, therefore, be ignored. In order to make clear our position and to remove any misunderstanding in regard to a proposal for partial or entire cancellation of the debt, you will please find an early occasion to take up the matter informally with the Premier and the Minister of Finance in the light of the foregoing. They should understand that public opinion in this country reacts promptly and definitely to statements such as those of M. Clémentel which raise a question as to the French Government's intention to pay its debt or as to the equity of such payment, and the United States Government must expect that the French Government will take an early occasion to give evidence of its intention to pay and make proper provision for refunding of its debt.

Results of your conversations should be cabled and please advise also as to desirability of making formal written communication of our views. [End paraphrase.]

HUGHES

800.51 W 89France/48 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, December 31, 1924—1 p. m.

[Received 11:57 p. m.]

618. Clémentel called on me this morning and stated that he greatly regretted and was at a loss to understand the impression which his inventory has made in the United States. He said that the principal reason for the publication of the inventory was to prepare French public opinion for the realization that France must

pay the sums she owes. He stated that far from suggesting any idea of repudiation his report repeatedly affirmed the responsibility of France for her debts and in support of his statements cited to me pages 72, 73, 74, 75 and 252 of his report. A translation of excerpts from these pages reads as follows:

"The possible opening of these negotiations does not permit us today to elucidate this problem in such a manner as it requires, the preparation of France's dossier not being, moreover, finished yet. Nevertheless we must not fail to show briefly at this time the principal elements of this question in order to reserve for the inter-allied debts in the general balance sheet of our country the real place and importance which should be assigned to them.

And if in the scales in which shall be measured the contribution of each state to the common victory the blood which was shed cannot be weighed, at least France can hope that the rank which she occupies on the long list of sorrows and devastations will give her the right to legitimate consideration in a domain where the granting of compensations is to be considered.

France does not intend to repudiate any of the contracts which she has agreed to and her signature will always be sacred to her. But she is convinced that an appeal to the sentiments of justice which have grouped around her so many nations during all the war will not remain in vain; she is convinced that her allies and her friends will respond to the hopes which she places in their lofty conscience and their sentiments of justice and solidarity.

Upon the extinction of the debts adjusted on a fair basis taking into account all the elements which affect them according to the very terms of the last Paris agreement, terms confirmed by the Prime Minister of Great Britain in his closing speech at the London conference, terms in which can be found the thought which inspired the proposal of Bonar Law and Lord Curzon, she will devote her patient and courageous effort. Thus will be vindicated the confidence which all the lenders of the world have placed in the word of a people which has not ceased for 10 years to give proofs of its energy and [self-denial].

The settlement of interallied debts is still in abeyance and we cannot figure out today the burden which we shall be called upon to assume on this account after a careful study in all loyalty with our great Allies who we are certain would wish to bring to this settlement the cordial spirit of solidarity which united us on the battlefield in the defense of the common [cause].

Moreover, the application of the principles of the Dawes plan which subordinates the payments of a debtor state to its capacity of payment and to the possibility of making transfers without weakening its exchange and damaging its national economy on the one hand, on the other hand the necessity of subordinating the payments to the collection of Germany's settlements give us the certainty that a liberal moratorium and long delays will be granted to us for the payment of the debt which it shall have appeared fair and legitimate to hold us liable for.

It does not appear therefore that during the coming years the equilibrium which we have laboriously established will be prejudiced."

Have received first two sections of your 493, December 30, 5 [8] p.m., and in conversation with Clémentel this morning I made citations to him of these portions of his report referred to in your cable. He requested a copy of the citations and at my suggestion will telegraph Jusserand detailed explanation. He appeared very upset at what he repeatedly assured me was the entirely mistaken impression that his report has given in the United States. He said that the whole report must be read together to get its real meaning.

HERRICK

800.51 W 89France/50 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, January 1, 1925—5 p. m.

[Received 6:20 p. m.]

1. My 614, December 30, 7 p. m. I have requested both Herriot and Clémentel to say nothing about the latter's note, and believe it may be advisable, considering nature of proposal, for Department to regard it as confidential.

Detailed newspaper rumor has already appeared in regard to the note, but I believe that this is attributable to source which has since been stopped. I am informing press correspondents that there is no new development.

HERRICK

800.51 W 89France/50 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, January 2, 1925—5 p. m.

2. Your 614, December 30, 7 p. m., and 1, January 1, 5 p. m. Department appreciates your suggestion and will refrain from comment to press as far as possible. The press here have information, however, to effect that France has made definite offer which includes 10-year moratorium followed by payment through 80 years at rate of one-half 1 percent. As the press here is dealing extensively with matter on Paris source of information, it may be difficult, if not impossible, to regard contents of note as confidential. Please telegraph full text.

HUGHES

800.51 W 89 France/52 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, January 3, 1925—11 a. m.

[Received 10:24 p. m.²⁶]

8. Your number 2, January 2, 5 p. m. Following is translation of Clémentel's memorandum on the state of French opinion relative to France's debt with regard to the United States.

"1. For a long time French public opinion believed in a general cancelation of debts contracted between the Allies during the war. France was conscious of having given to the common cause more than any other nation in the world; she had sacrificed the greatest number of men; she gave her richest provinces for battlefields. She thought she was right in expecting the Allied nations to forgive her the sums she had asked of them in order to conduct the common war, as she herself would have forgiven her Allied debtors.

Furthermore this attitude of French opinion found its justification as regards the debt contracted towards the United States in the speeches that were made in 1917 in the American House of Representatives and the Senate and which it is unnecessary to recall here.

A perfect expression of French opinion at the end of the war and during the first years which followed the cessation of hostilities is summed up in Mr. Lloyd George's speech in the House of Commons in February 1915: "A war alliance cannot be concluded on principles of limited responsibility. If one of the nations of the alliance has instructed and armed more men than another allied country is able to do it should use them against common enemy without considering the fact that the others cannot for the time being furnish a similar contribution. The same principle applies also to a nation which has greater resources in capital or credit. It should use them to the greatest extent for the good of the alliance even if the other nations may or may not be capable of making a similar contribution."

2. Little by little however beginning with 1919 French opinion realized that the United States would never agree to a general and complete cancelation of interallied debts. It then appeared to it fair that the problem of interallied debts should at least be dealt with in its entirety and united with that of reparations. France on the one hand has lent, itself, considerable sums to poorer Allies and these sums amount to almost half of her external debt. She had on the other hand provided for the reconstruction of the devastated regions which constitute a heavy charge on her budget. Germany, who should have met these expenses, has not done so.

French opinion could, therefore, legitimately ask that France should only pay her creditors in proportion to the payment made by her debtors. Such an opinion tended to a general compensation of interallied debts and to subordinate France's payments for the settlement of her debts to those of Germany for the reconstruction of the devastated regions.

²⁶ Telegram in four sections.

This opinion, which appears so eminently fair, is moderate, since it places on the same footing the debts between Allies contracted in a common cause and Germany's debt for the reparation of the ruins which she caused. It was expressed many times by the British and French Premiers; but it was not accepted by the Government of the United States.

3. However, the French Government has never repudiated the war debts of its country. But it would be very difficult to make French opinion accept a method of settlement in accordance with the principles which have always been maintained by the American Government: Integral maintenance of the nominal amount of the debt; treating this debt independently of payments by Germany.

But the adoption of such principles can only be reconciled with very easy conditions of settlement. It is in particular indispensable that the amortization table should show a long moratorium and very small annuities at the start in order to permit France: one, to wait until the Dawes Plan has entered into a period of effective application; two, to settle external commercial debts and in particular the debt due by reason of the purchase of American stocks; three, to wait for the time when the expenses resulting from the war (pensions, annuity allowances for reconstruction) shall begin to decrease.

It is under these conditions that French public opinion may be led to adopt such a plan as the following which is only submitted in a purely unofficial and private manner: Fixing the nominal amount of the debt to the amount of this debt in capital, that is to say at \$2,933,000,000; complete moratorium for 10 years beginning from September 1, 1924; rate of interest and amortization in connection with the following table (in millions of dollars):

Number of annuities	Rate of interest	Annuity value	Capital to be [amortized] at the end of each period
10	0	0	2933
20	$\frac{1}{2}$	30	2611
20	$\frac{1}{2}$	40	2045
20	$\frac{1}{2}$	50	1210
20	$\frac{1}{2}$	65	1210

In order to combine in a certain measure the value of the annuities and France's capacity of payment, a principle which is in [conformity] with all the American declarations, it should be understood that on the day when Germany shall fulfill only a portion of the obligations stipulated by the Dawes Plan the portion of the French annuity corresponding to the interest on the debt would be reduced in the same proportion. The payment of a certain percentage of part of this annuity corresponding to the amortization could also be deferred and carried over to the following year. The nominal capital of the debt would remain unchanged.

The same rules would apply in case only a partial German annuity should be paid to France according to one of the methods stipulated in the Experts Plan.

American stocks:

French public opinion realized that the nature of this debt is quite different. The French Government has always regularly paid

the interest on the price agreed upon and it has no intention of asking for a reduction of this debt as the one that it requests regarding the war debt.

It should be pointed out, however, that by reason of the fall of the franc the sale [of] the stocks, bought for \$400,000,000 only produced an approximate figure of \$220,000,000 and thus constitutes a very burdensome transaction for France. Remembering that at the time of the cession of these stocks the American representatives declared on many occasions their desire that this transaction should not result in a loss to France, the French Government hopes that the American Government will consent either to reduce the nominal amount of its credit to a price nearer the real sale price of these stocks or to grant a reduction in the rate of interest being paid on the cession price.

In admitting, for example, that the rate should be fixed retrospectively at 2 percent from 1919 France would remain liable for a debt of \$350,000,000 which she could amortize in 20 years by an annuity of \$22,000,000.

Conclusion:

Since the Armistice, France has made heavy payments abroad and in particular to the United States on account of its so-called 'commercial' war debt. These payments can be evaluated at approximately the following amounts (in millions of dollars):

	Commercial debt	American stocks	Total
1920	70	..	70
1921	31	20	51
1922	30	20	50
1923	29	20	49
1924	28	20	48

The figures quoted are calculated after deducting the new loans issued on the American market and the treasury credits opened to France in 1920. It is therefore truly a question of real disbursement[s] the total of which has had to be transferred to America and which have weighed heavily on our Treasury and the balance of our payments abroad.

Similar payments must still be made in the coming years according to a decreasing scale.

In order [that] transfers on account of the political debt may be possible it is therefore indispensable that the annuity destined for the service of the political debt should be very small at the beginning and increase in proportion to the extinction of the commercial debt.

The plan of settlement adopted must, none the less, consider the transfer problem as a whole in conjunction with the exchange rate and the eventual use of bonds for example in part payment."

I have informally and personally made the three following suggestions of changes in Clémentel's memorandum: (1) that there should be eliminated from the unofficial memorandum the clause

relating to the debt payments being dependent on the working out of the Dawes Plan; (2) that no reference should be made to American stocks (surplus food supplies, equipment, etc., belonging to the American Expeditionary Forces which were turned over to France after the Armistice); (3) instead of a flat rate of one-half percent interest for the whole time there should be periods when some method should be set up when an advance interest rate may be considered.

I had hoped to receive an indication of how Herriot received this suggestion before cabling full text.

I must emphasize the fact that Clémentel does not consider his memorandum a "definite offer" but rather a tentative personal and unofficial suggestion.

HERRICK

800.51 W 89France/57 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, January 15, 1925—4 p.m.

46. In acknowledging receipt of copy of your telegram No. 8, of January 3, 11 a.m., Mr. Mellon²⁷ informs me that due note has been taken of contents of last paragraph of your telegram under reference; that he will regard the memorandum as confidential; and that in view of Clémentel's statement as to the nature of the memorandum, it does not seem possible to consider it as being in any way a proposition from the French Government to this Government or to the World War Foreign Debt Commission.

Mr. Mellon observes that while there appears to be no intimation from you that a reply to Clémentel's memorandum is expected, he assumes that I shall be communicating with you, and in this connection he states that the terms suggested in Clémentel's memorandum for dealing with the debt of France to the United States do not seem to offer a practical basis upon which negotiations might be begun. Mr. Mellon adds that he will appreciate receiving any information that may have come to you respecting any discussions that may have taken place in Paris respecting inter-Allied debts.

HUGHES

²⁷ Andrew Mellon, Secretary of the Treasury and chairman of the World War Foreign Debt Commission.

800.51 W 89France/64 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, January 23, 1925—6 p.m.

[Received 9:15 p.m.²⁸]

79. The trend of events in regard to the question of debt settlement has me greatly worried. A speech by M. Marin in the Chamber of Deputies on January 21 is a fairly accurate representation of the views of the man in the street, and a more difficult situation will arise if this opinion be allowed to crystallize. I do not know whether the United States realizes the financial crisis that France is now facing. At the present moment it is almost impossible for the Government to make any concrete effort at debt settlement which would meet American approval. If matter is allowed to rest I fear that opinion here may become general that we are not prepared to make reasonable settlement and that a frame of mind will be built up which not only would intensify French lack of confidence in their finances but would make it impossible for any Government to make further proposals. I have been indirectly informed that Clémentel feels that proposal contained in his memorandum is his last word, and although from our point of view it is unsatisfactory, he is being criticized here for having offered too much; I am reliably informed that the Governor of the Bank of France has said that in his opinion Clémentel had offered more than France could afford.

I feel that M. Herriot's government has made greater efforts to bring about settlements of pending questions than any preceding one, perhaps greater than may be made by succeeding governments. For this reason it seems to me that an effort must be made to persuade French Government to reopen question by making official communication of some sort which, even if not satisfactory to us, would serve as basis for further negotiations.

Such effort as this, it seems to me, would serve two purposes; first, it would forestall formation of opinion here that the United States is a merciless creditor, and second, it would prevent fixing of American opinion in the idea that France intended to repudiate the debts.

I venture to ask you, therefore, if, in spite of your telegram No. 46, January 15, 4 p. m., it would not be well to endeavor to have the Clémentel proposal renewed in an official form. I have not yet heard (and I have not pressed for a reply) whether Clémentel was willing to adopt suggestions I made and of which I informed Department in my No. 8, January 3, 11 a. m., but I think it possible that he might accept (2) and (3). A communication of this sort,

²⁸ Telegram in three sections.

it seems to me, would at least serve to focus American public opinion on financial condition of France and would keep French public opinion from thinking us hard and unjust. I am aware of the thorny aspects of the problem, but if matters are allowed to drift I fear that our moral influence in Europe may be weakened for many years and that our own public opinion may become correspondingly harder.

Please do not think that this telegram is dictated by any desire to give way to public sentiment here. I am expressing an opinion based on conversations with Americans here representing various interests, financial and otherwise, some of whom seem even more alarmed than I am.

I have not in any way sounded any French sources and I do not know whether it will be possible to obtain the official communication to which I have referred from the French Government. If an agreement is reached with Great Britain along lines that have been suggested, our position in Europe will become still more difficult and what is called our rigid attitude will be exploited against us by others. I feel that if only a slightly modified version of the Clémentel memorandum can be obtained officially from the French Government, and even if resulting American opinion be clearly opposed to it, the way is paved for an invitation from the French Government to the World War Foreign Debt Commission to send representatives here to examine financial status of France and in this way be in position to determine for itself kind of settlement which is within capacity of France to make.

HERRICK

800.51 W 89France/64

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, February 6, 1925.

MY DEAR MR. AMBASSADOR: I am grateful to you for writing me so fully in relation to the French debt and I have not failed to consider most carefully the suggestion in your telegram of January twenty-third.

There are certain difficulties which must be faced. One is that the funding of the debt is in the hands of a special Commission created by Congress. It is unwise to deal with the matter in a way which will evoke criticism in Congress or to ignore the Commission. For this reason the matter does not lie within the ordinary range of diplomatic conversations. Another difficulty is that any effort to try out questions privately in advance is destined to fail. Such

confidences are hard to keep and before they go very far something leaks out in Paris or here and then there is misunderstanding, explanation, and the necessity of informing a public whose curiosity has been piqued. Confidences are of little use unless they are imparted to the Commission and then they are no longer private.

I confess I am greatly troubled and I do not think that any way out will be found short of frank and full interchanges. Opinion hardens on this side largely because of the disposition to believe that there is no intention to pay. On the other side there is a danger of increasing ill will because we are supposed to be harsh and lacking in consideration of difficulties abroad.

The way out, as it seems to me, is to face the facts; on the other side to dissipate the notion that the debt is one that ought not to be paid or that there is no intention to pay it; on this side, to deal with the economic verities. If the French Government makes an offer at long range it is practically certain to be unacceptable in its terms and we have no suitable opportunity for negotiation and efforts to arrive at an understanding.

If the French Government were to send here a delegation who would put all the cards on the table, show the exact economic situation and endeavor to bring about a common agreement as to the underlying facts then perhaps we could make some progress. If this were done with the Commission itself, the best impression would be produced. The point is to have perfectly candid interchanges in the manner that will be most influential in affecting the opinion of Congress. I fear that anything attempted outside the Commission would have small chance of success although of course it is possible a delegation of the right sort sent abroad, if invited by the French Government, might be helpful. This however would need great care in working out as nothing I assume would be more offensive to the French than the idea of an investigating committee while such a Commission would not meet opinion here unless there were included in it those who were believed to represent the insistent demand of this country. I think that before anything is done in that direction there should be opportunity for consultation with the President and definite instructions.

I cannot speak officially in regard to the debt as the Department of State is really only a vehicle of communication, Congress having taken control of the subject. But I am unable, as I have said, to escape the conclusion that the sooner we get down to a direct and comprehensive discussion of the economic situation involved, meeting representatives of the French Government face to face not for the purpose simply of presenting a plan but of exposing a condition with the hope that a plan could be matured, can we be measurably successful in dealing with this problem.

With kind regards [etc.]

CHARLES E. HUGHES

800.51 W 89France/98 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *March 20, 1925—noon.*

[Received March 20—9:50 a.m.]

188. Minister of Finance has called on me and intimated that he would study modifications I had suggested of his proposals and of which I informed Department in my telegram number 8, January 3, 11 a.m. Clémentel realizes great importance financially and otherwise to France of settlement of debt question, and I am hopeful that he will modify his proposals to extent where it may be possible for the Debt Commission to regard them as basis for negotiations.

Franklin-Bouillon, the President of the Foreign Affairs Committee, Chamber of Deputies, and one who is likely to hold a position in the Cabinet if a not unlikely change of government takes place, has told me that the French must concentrate on problem of security, but once this problem is solved, he hopes for settlement of debt question. He has in mind a small joint committee, of which he would be the head, representing both the Senate and the Chamber of Deputies, who would be empowered by the Committees for Foreign Affairs of the Senate and the Chamber to go to Washington in the autumn to negotiate with the World War Foreign Debt Commission.

HERRICK

800.51 W 89France/101 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *March 31, 1925—6 p. m.*

[Received March 31—5:31 p. m.²⁹]

206. Reference Embassy's 8, January 3, 11 a. m., 188, March 20, noon, and my personal letter of March 19, 1925,³⁰ bearing on French debt.

Clémentel has just sent me a note dated March 28, 1925, of which the following is a translation, enclosing a new text of his memorandum of December 30 which should be considered as canceled.

"My Dear Ambassador: You were good enough to transmit to me on January 3 last certain personal remarks concerning the terms of the memorandum which I handed to you on December 30 with regard to France's debt towards the United States.

The French Government in its desire to arrive at an understanding between the United States and France is willing after the unofficial

²⁹ Telegram in two sections.

³⁰ Letter not printed.

exchange of views which you were good enough to initiate and which you were good enough to offer to continue to present to the parliamentary commissions and then if it obtains their favorable opinion to Parliament itself a plan for the amortization of France's war debt based on the points contained in my memorandum which has been modified by giving the greatest possible consideration to the suggestions you were good enough to make to me.

I desire to say to you, and I am all the more at liberty to do so since it is not yet a question of official negotiations but of unofficial preparatory conversations, that it seems that French public opinion and Parliament cannot go further than I indicated and that great efforts will be necessary, efforts which the Government is prepared to make in order to obtain the adherence of Parliament which as you know is necessary.

France's proposals must indeed take loyally into account her possibilities of payment and it is difficult at the present time, only six months after the coming into force of the Experts' Plan, to foresee what her possibilities will be.

I am sending you therefore a new text of my memorandum of December 30 in which the following changes have been made:

(1) France's entire debt towards the United States would be fixed at its total in capital, that is to say, at about \$3,340,000,000 (the value of American stocks included).

(2) This debt would be extinguished by annual payments corresponding to the following table:

Number of annuities:	Rate of interest:	Value of annuities: (in millions of dollars)
5,	1½ percent,	20,
10,	1½ percent,	40,
20,	1 percent,	55,
20,	1½ percent,	70,
28,	2 percent,	85,

(3) The French Government is willing to agree that the rhythm of the amortization in capital of the debt should not be contingent upon the payments which France is to receive from Germany. The portion of the annuities representing the amortization would therefore be paid integrally and regularly to the United States whatever may be the degree of execution of the Dawes Plan.

Only the payment of the portion of the annuities corresponding to the interest of France's debt would remain dependent upon the payments made by Germany and the possibility of the transfer of these payments.

If it appears to you possible to transmit this memorandum privately and unofficially to the Government of the United States it should be understood that it takes the place of the first memorandum which should be considered as canceled.

Very sincerely yours, (Signed) Etienne Clémentel."

The new memorandum differs from that contained in the Embassy's 8, January 3, 11 a. m. as follows: Section 1, paragraph 2 omit "as she

herself would have forgiven her allied debtors".⁸¹ Section 3, paragraph 2⁸² should read:

"The adoption of such principles can only be reconciled with very easy conditions of settlement. It is, in particular, indispensable that the amortization table should show quite small annuities at the start in order to permit France: To wait until the Dawes Plan has entered into a period of effective application and the expenses resulting from the war (the pensions, annuity allowances for reconstruction) shall begin to decrease.

It is under these conditions that French public opinion may be led to adopt such a plan as the following: Fixing the nominal amount of the debt to the amount of this debt in capital, that is to say, at \$3,340,000,000 (the value of American stocks included); rate of interest and amortization in conformity with the following table: (Here insert table quoted in foregoing letter.)

In order to combine in a certain measure the value of the annuities and France's possibilities of payment, a principle which is in conformity with all the American declarations, it should be understood that if Germany were to fulfill only a part of the obligations prescribed by the Dawes Plan or if only a portion of the German annuity should be paid to France in accordance with one of the methods provided for in the Experts' Plan, the portion of the French annuity corresponding to the interest of the debt should be reduced in the same proportion.

But France would undertake to pay regularly and integrally to the United States the portion of the annuities representing the amortization, whatever may be the degree of execution of the Dawes Plan."

Portion of old text bearing upon American stocks is omitted from the new memorandum.

The new memorandum indicates that the suggested changes which I mentioned in my number 8 January 3, 11 a.m. have received certain consideration. Clémentel's modification of his first proposal I construe to be symptomatic of the present government's earnest desire for practical solution of this problem. I venture the opinion that it is an opportune moment to act because the French Government realizes now that the absence of progressive negotiations is restrictive to French credit. Moreover while the payment of entire debt has been unofficially avowed by the French Government yet I believe that important advantages would attach to the official and outspoken recognition of that principle. The harmful and befogging beliefs concerning the French attitude and that we are exacting creditors should then be dispelled. In this connection may I call your attention to the views expressed in my number 79 January 23d, 6 p.m. relative to the detrimental effect of marking time. To reject Clémentel's new memorandum without a constructive suggestion from our

⁸¹ See sec. 1, par. one, p. 140.

⁸² See sec. 3, pars. two to five, p. 141.

Government as to what might constitute a starting point would have a depressing effect and tend to jeopardize future negotiations.

Accordingly in spite of the fact that the new memorandum does not embody all that is to be desired, nevertheless I earnestly hope that in view of the conciliatory changes in comparison with first proposal it may serve as a starting point. In that case I do not believe that it would be difficult to induce the present government to consent to taking steps along some of the lines suggested by Mr. Hughes in his letter of February 6th, 1925 to me.

Complete text of new memorandum by next pouch.³³

HERRICK

800.51 W 89France/112a : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, May 5, 1925—1 p. m.

184. I desire you to take the earliest suitable occasion to take up with the proper French authorities question of the French debt. You should shape your conversation along following lines:

(1) The Government of the United States believes that negotiations looking to an agreement on a suitable basis for refunding of France's debt to the United States should be undertaken at earliest practicable moment. In latter part of November 1924, the French Ambassador, Mr. Jusserand, called on Secretary of the Treasury Mellon, chairman of the World War Foreign Debt Commission, and indicated that the French Government was desirous of an endeavor to arrive at some terms of settlement which might prove satisfactory to both Governments. Secretary Mellon discussed the matter with the other members of the Commission and on December 1, 1924, informed Ambassador Jusserand on behalf of the Commission³⁴ that the Commission were prepared to recommend to Congress the British terms with such modifications as would meet the difference in the existing economic situation in France; that it would appear that payments upon the principal of the debt could be begun at once, and that the differences referred to should find expression in an examination of the various questions which relate to payments of interest.

Subsequent to this exchange of communications, certain personal and unofficial suggestions for dealing with French debt to the United States were submitted to you privately. These suggestions did not

³³ Not printed.

³⁴ See *Minutes of the World War Foreign Debt Commission, 1922-1926*, pp. 60-61.

seem to offer a practical basis, however, upon which negotiations might be begun. In light of present circumstances the Government of the United States believes that discussions should be continued in more official manner and should take form of proposals more likely to prove acceptable to World War Foreign Debt Commission and to Congress. It is believed that the statement communicated to Mr. Jusserand by Secretary Mellon can appropriately be made basis for further discussions of the question. The Government of the United States is not unmindful of financial difficulties of France and appreciates fully that any arrangement made must take actual economic and financial situation into account. It does not follow, however, that no steps toward refunding should be taken, as this Government believes it to be in interest of Governments of both France and the United States that a definite basis of settlement be found as soon as possible.

(2) I fear that if no settlement is made in next few months, or at least if no substantial progress is made, public feeling in United States may grow that France does not have serious intention of paying, and that feeling thus created will make suitable arrangement in light of all the circumstances exceedingly difficult to reach. The Government of the United States would prefer not to send a formal communication in the matter to France at this time, and hopes that it will not be necessary to do so. For this reason you will appreciate importance of putting matter before French Government in such manner that advisability of taking action suggested will be fully understood. It is preferable to elicit overture from France, if possible, in order to avoid appearance of pressure from this Government which might produce unfortunate reaction from French public opinion. M. Clémentel's second personal and unofficial memorandum to you (as I have already indicated above) would not appear to be any more acceptable as a basis for negotiation than his first, which Secretary Mellon did not find to offer a practical basis upon which negotiations might be begun. It appears instead to be desirable to use the communication made to Mr. Jusserand by Secretary Mellon in December as starting point for the present discussions and to have your representations upon it. While it is confidently believed that at that time the Ambassador did not fail to advise his Government of the statement made to him by Secretary Mellon, it is desired that you hand to the proper French authorities, when you have your conversation with them, a memorandum containing the statement communicated to Mr. Jusserand by Secretary Mellon on December 1, 1924.

(3) Please repeat foregoing to Embassy in Great Britain, with report of action you take, for Ambassador Houghton's information.

KELLOGG

800.51 W 89France/113 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, May 7, 1925—2 p. m.

[Received 7:20 p. m.^{ss}]

268. Your telegram No. 184, May 5, 1 p. m. I had already had some informal conversations with Premier Painlevé, Minister of Finance Caillaux, M. Loucheur,^{ss} and with M. Franklin-Bouillon,^{ss} who came at his own request on May 5 to talk matter over with me. We had talked together just before he left for Angora, and he had mentioned the difference in the rate of exchange between time when these loans were contracted and present, and that it seemed equitable some adjustment should be made so that France would not have to pay in francs more than she would have to pay were exchange at par. I had merely listened, and not until Painlevé also raised this point did I see that Franklin-Bouillon was seriously presenting it as an argument. I very briefly explained its fallacy to Painlevé, and when Franklin-Bouillon brought the idea up again on May 5 I pointed out its absurdity as an argument after the recent issue of notes when no guarantee existed that there would not be a further emission; I think I succeeded in dispelling any idea on his part that there was trading basis on this point.

Yesterday Franklin-Bouillon again asked to see me, in the meantime having taken my advice to consult some of the great French bankers. He said that first thing to do, in his opinion, was to agree on certain basic principles which he set forth as follows: (1) Great Britain to be paid *pari passu* with the United States; (2) France to be granted a 10-year moratorium; (3) debt to be extinguished in 80 years.

He had expressed these views to Caillaux; the latter had agreed; and Franklin-Bouillon said that he thought we would soon receive an official proposal along those lines. I said that I was glad to hear it, as I knew that my Government was expecting some overtures from France; that as far as terms were concerned, all I could say was that neither of the proposals made by M. Clémentel was thought by the Debt Commission to offer a basis for negotiation, and that to be successful a proposition along lines of Secretary Mellon's statement (of which I handed him a copy) should be made.

At first he was somewhat moved, and said it was hopeless were we to stipulate the British terms and immediate payments; that it was impossible for them to pay anything until restoration of the devas-

^{ss} Telegram in two sections.

^{ss} Member of the Chamber of Deputies.

tated regions had been completed, and that this would take about 4 years. I referred to the qualifying words in Secretary Mellon's statement, and said that although I had been given no interpretation of their exact meaning, they did not, in my opinion, seem to exclude any of the principles which he had set forth; as to payments on the principal, France was already paying 20 millions yearly, and that British agreement started with 23 millions, which was no great difference. He is going to discuss matter with the Government this morning and will come to see me this afternoon.

For my own personal information I should appreciate an expression of Secretary Mellon's view on principles set forth by Franklin-Bouillon. I do not mean by this to ask for statement of what Debt Commission will be willing to accept, but only to ascertain principal lines on which I must work to evoke from French Government a proposal which Debt Commission would be willing to consider as a basis for beginning of negotiations.

Repeated to American Embassy, London.

HERRICK

800.51 W 89France/113 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, May 8, 1925—4 p. m.

190. (1) I have discussed your No. 268, May 7, 2 p. m., with President Coolidge, Secretary Mellon, and Secretary Hoover.

(2) We thoroughly agree with your view that suggestion regarding difference in rates of exchange cannot be taken into consideration, and we are gratified that you have dispelled any idea that a trading basis on that point is possible.

(3) The basic principles put forward by M. Franklin-Bouillon are not acceptable. It should be recognized that this Government can make no commitment of any kind to agree to a basis which might be agreed upon between Great Britain and France, and that we must insist that debt of France to the United States is entirely separate. His suggestions with regard to a moratorium and period over which payments are to be made are covered in statement Secretary Mellon gave to Jusserand on December 1, 1924, of which you handed him a copy.

(4) It is gratifying to note indication that official proposition may soon be made, but I am confident that you will appreciate importance of bearing in mind fact that actual negotiation of terms is matter for World War Foreign Debt Commission, and that neither the Department nor its representatives are authorized to negotiate.

Any indication on your part of views of Debt Commission besides those set forth in Secretary Mellon's statement to Jusserand of December 1 might, at present stage, lead French officials to endeavor to draw you into discussion of particular terms. It is our desire to elicit from French Government an official proposal to Debt Commission on basis of Secretary Mellon's statement (copy of which you handed to M. Franklin-Bouillon) in which sole area for discussion is adjustment of interest payments to economic necessities of France. A proposition of this nature might be presented to Secretary Mellon by Ambassador Daeschner and in this way serve as basis for further discussion with Debt Commission.

KELLOGG

800.51 W 89France/121 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, May 16, 1925—1 p. m.

[Received 1:15 p. m.]

282. Department's 190, May 8, 4 p. m. With reference to your paragraph 3 I do not think Franklin-Bouillon desired United States to commit itself to basis upon which France and Great Britain might agree. His principle is that as French debts to Great Britain and to the United States are approximately equal it is impossible for France to discriminate in favor of one against the other. Practical result is that French Treasury must be prepared to pay double what may be agreed upon with the United States, and that this fact has naturally to be considered in estimating amount France could pay us.

Your paragraph 4. I have never failed to be aware that negotiation of terms is wholly matter for Debt Commission and I think the French understand that perfectly. During a conversation with Franklin-Bouillon this morning I put forward your suggestion in regard to Ambassador Daeschner and Secretary Mellon.

Caillaux and Minister for Foreign Affairs Briand have been officially appointed to study question of the interallied debts, and I have slight doubt that an official proposal will be forthcoming in comparatively near future.

Repeated to American Embassy, London.

HERRICK

800.51 W 89France/121a : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, May 18, 1925—7 p. m.

203. Inquiries from newspaper correspondents made necessary a statement Saturday by the Department regarding debt-funding negotiations, and for information of the correspondents, but not for quotation, the Secretary said:

"The correspondents are aware that debt-funding arrangements have been completed with Great Britain, Finland, Hungary, Lithuania, and Poland by the World War Foreign Debt Commission.⁸⁷ Among the countries with which debt-funding arrangements have not been completed are Belgium, Czechoslovakia,⁸⁸ France, Italy, and Rumania.⁸⁹ In pursuance of authority given by Congress, it is function of the Debt Commission to keep subject before these Governments with whom arrangements have to be made, and the duties of the Secretary of State are to carry out, in communication with foreign Governments or with our Ambassadors and Ministers, the orders of the Debt Commission. The correspondents will readily understand that the Secretary of State cannot publish the various communications to our Ambassadors and Ministers or conversations between them and the representatives of foreign governments. The Secretary could only say that these matters had been brought to the attention of these governments, and that he is very hopeful that they are taking steps to open subject of settlement of the debt with the World War Foreign Debt Commission. We earnestly desire and hope that negotiations will be entered upon promptly and brought to satisfactory conclusion at earliest moment possible.

"France is only one of countries which have been urged to reach settlement with the Debt Commission, and it would be a matter of great satisfaction, of course, if French Government should take steps promptly to send a commission to negotiate and conclude with our World War Foreign Debt Commission, a suitable arrangement for payment or funding of debt of France to the United States, and that he had received impression from press reports that the French Government has in mind such action in near future."

The foregoing statement is the sole basis for newspaper stories about a circular note to debtor governments. Department has not sent any such note and none is thought of.

At press conference of May 18 one correspondent inquired if there was any authority for reports that nine countries had been approached. Secretary said he did not make that statement and that he could not say nine countries had been approached. Another

⁸⁷ See *Combined Annual Reports of the World War Foreign Debt Commission*, pp. 106, 120, 132, 144, and 156.

⁸⁸ See pp. 107 ff. and 122 ff.

⁸⁹ See pp. 162 ff. and 165 ff.

correspondent said that a newspaper article had indicated that there had been a circular note. Secretary replied that there had not been any, and that whatever had been done through conversations with Ministers and Ambassadors had been done separately, not all at same time.

Repeat the foregoing to American Embassies Belgium and Italy, and Legations Czechoslovakia, Greece, Latvia, Rumania, and Yugoslavia.

KELLOGG

800.51 W 89France/182 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, June 18, 1925—6 p. m.

[Received June 18—4:57 p. m.]

336. At lunch day before yesterday with Briand, Caillaux, and others at home of M. Bunau Varilla, owner of *Le Matin*, the French debt to the United States was discussed at length. Briand stated that he would: (1) Admit publicly indebtedness of France to the United States at public luncheon on July 3; (2) in no way link France's payments to the United States with receipts from Germany on account of reparation payments; (3) open correspondence with the Government of the United States through Ambassador Daeschner admitting indebtedness of France and asking for information on principal of the debt, its maturity, interest to be charged, and length of moratorium to be granted; (4) send small official commission to the United States armed with sufficient authority to confer with World War Foreign Debt Commission and to conclude negotiations at such time as progress of preliminary negotiations shows conclusively that visit of commission would be successful.

At a luncheon at Bunau Varilla's on June 9, at which Caillaux and Painlevé were present, the debt question was discussed, and opinions voiced at that time by Painlevé coincide with Briand's intentions described above.

Caillaux requested Bunau Varilla to intimate to me that he felt no great security in tenure of his present office, but that he thought plans outlined above would be carried out whether he fell or not.

Repeated by mail to American Embassy, London.

HERRICK

800.51 W 89France/182 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, June 23, 1925—6 p. m.

235. Your 336, June 18, 6 p. m. Reference your first paragraph. I would be glad if you can find it possible to suggest that in speech on July 3 intention be publicly announced of sending commission to Washington to enter upon debt-funding negotiations, and that an early date be set for commission's departure.

KELLOGG

800.51 W 89France/137 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, July 3, 1925—3 p. m.

[Received 4:05 p. m.]

362. Your telegram No. 235, June 23, 6 p. m. At luncheon given today at Foreign Office to American delegation to Exposition of Decorative Arts, Briand said in speech that propaganda carried on in the United States to show that France was imperialistic had been silenced by attitude of French Government, that new propaganda that France was trying to avoid paying her debts would be silenced in same way, and that the French Government had decided "to send in the very near future a commission to the United States to settle the debt, naturally, in such a manner as the state of the French finances permits".⁴⁰

I feel that in view of present conditions here this statement was as categorical announcement as could well be expected; hope it is satisfactory to you.

HERRICK

800.51 W 89France/180

The French Ambassador (Daeschner) to the Secretary of State

[Translation ⁴¹]

WASHINGTON, September 16, 1925.

MR. SECRETARY OF STATE: I have the honor to inform Your Excellency that the mission charged with the duty of assisting Mr. Joseph Caillaux, Minister of Finance, in his forthcoming negotia-

⁴⁰ Quoted passage not paraphrased.

⁴¹ File translation revised.

tions with the Secretary of the Treasury in Washington for the settlement of the debt of France to the United States, will consist of:

Mr. Henry Bérenger, Senator, General Reporter of the Finance Committee of the Senate;

Mr. Louis Dausset, Senator, Reporter of the Budget of Finances in the Senate;

Mr. Fernand Chapsal, Senator, formerly Director of the Ministry of Commerce;

Mr. Paul Dupuy, Senator;

Mr. Vincent Auriol, Deputy, formerly Chairman of the Finance Committee of the Chamber of Deputies;

Mr. Lucien Lamoureux, Deputy, Assistant General Reporter of the Finance Committee of the Chamber of Deputies;

Mr. Maurice Bokanowski, Deputy, Member of the Finance Committee of the Chamber of Deputies;

Mr. de Chambrun, Deputy;

Mr. Joseph Simon, formerly Inspector General of Finance, Vice President of the Société Générale;

Mr. Moreau-Néret, Assistant Director of the General Movement of Funds and Minister of Finance;

Mr. Haguenin, Inspector of Finances.

The Ambassador of France at Washington and Mr. Lacour-Gayet, Inspector of Finances, Financial Attaché of the Embassy of the Republic at Washington, will also form part of that mission.

The mission embarked at Havre on the 16th of this month on the ship *Paris*, which, barring accident, should arrive in New York on the evening of the 22d.⁴²

Be pleased to accept [etc.]

E. DAESCHNER

Greece

868.51 War Credits/389c

The Secretary of State to the Chargé in Greece (Goold)

No. 237

WASHINGTON, July 31, 1925.

SIR: With reference to your telegram No. 116 of December 15, 1924,⁴³ and other communications regarding the indebtedness of Greece to the United States, you are instructed to present the following note to the appropriate Greek authorities:

"Under instructions from my Government, I have the honor to refer to the agreement dated February 10, 1918, between representatives of the Governments of Greece, Great Britain, France and the United

⁴² For the negotiations between the Caillaux mission and the World War Foreign Debt Commission, see *Combined Annual Reports of the World War Foreign Debt Commission*, p. 44.

⁴³ *Foreign Relations*, 1924, vol. I, p. 141.

States, providing for the extension of credits to the Government of Greece under certain terms and conditions as therein set forth.⁴⁴ Pursuant to the provisions of this agreement, as modified by correspondence between the United States Treasury and the Greek Legation in Washington, the Government of the United States made three advances to the Government of Greece aggregating \$15,000,000, and as evidence thereof the Treasury Department holds a demand obligation of the Greek Government dated June 21, 1918, and reading in part as follows: 'As soon as practicable after the close of the war, this obligation will be converted by the Royal Greek Government into definitive obligations in suitable amounts having a date of maturity in accordance with the provisions of a certain agreement dated February 10, 1918, of the Royal Greek Government, approved by the financial delegates of the United States, of Great Britain and of France, but such date of maturity shall not in any event be later than the maximum limit permitted by the laws of the United States.' The provisions of the agreement of February 10, 1918, referred to in the text of this obligation stipulate that the advances made to the Government of Greece under the terms of that agreement shall be repaid by the end of the fifteenth year following the cessation of hostilities.

"Up to the present time, the Government of the United States has received no proposal from the Government of Greece looking to the conversion of the above-mentioned obligation into definitive obligations of the Greek Government, or for the settlement in any other manner of this indebtedness, although it is recalled in this connection that on December 15, 1924, M. Roussos, the then Minister of Foreign Affairs, authorized Mr. Laughlin to inform my Government that it might publicly announce the intention of the Greek Government to take up the regulation or funding of its indebtedness to the United States.⁴⁵ As stated above, however, no definite proposals to this effect have as yet been submitted by the Government of Greece. In this connection I am authorized to state that my Government would be prepared, after consultation with the other powers which are parties to the 1918 agreement, to examine the question of relieving the Government of Greece from its present obligation to obtain the consent of the United States to the pledging of any new security for external loans, if the Government of Greece should make satisfactory arrangements for the funding of its debt to the United States. I have also been instructed to point out that if the Government of Greece will promptly initiate debt funding negotiations, the World War Foreign Debt Commission would not be disposed to insist that the indebtedness of Greece be repaid in full within fifteen years from November 11, 1918, as contemplated by the agreement of February 10, 1918, but on the contrary would be willing to recommend to Congress a funding agreement such, for example, as that concluded with the Government of Great Britain whereby the principal of the indebtedness would be payable within a period of sixty-two years.

"In conclusion I have the honor to state that my Government would be pleased to be informed how soon it may expect to receive proposals

⁴⁴ *Greek Debt Settlement: Hearings Before the Committee on Ways and Means, 70th Cong., 1st sess., on H. R. 10760* (Washington, Government Printing Office, 1928), p. 51.

⁴⁵ Telegram No. 116, Dec. 15, 1924, 10 p. m., from the Minister in Greece, *Foreign Relations, 1924*, vol. I, p. 141.

from the Government of Greece looking to the funding of that Government's indebtedness to the United States, which amounted on May 16, 1925, to \$15,000,000 principal sum and \$2,625,000 accrued and unpaid interest, a total of \$17,625,000, all of which is payable on demand."

I am [etc.]

FRANK B. KELLOGG

800.51 W 89Greece/10

The Chargé in Greece (Goold) to the Secretary of State

No. 406

ATHENS, September 5, 1925.

[Received September 21.]

SIR: In confirmation of my telegram of to-day, No. 57, 12 noon,⁴⁸ I have the honor to state that this morning I was handed Foreign Office note No. 11193, dated August 30th in reply to my note No. 109 of August 14th which I had been directed to transmit by your instruction No. 237 of July 31st.

I have [etc.]

H. S. GOOLD

[Enclosure—Translation]

The Greek Acting Minister for Foreign Affairs (Hadjikyriacos) to the American Chargé (Goold)

No. 11193

ATHENS, August 30, 1925.

MR. CHARGÉ D'AFFAIRES: In reply to the note of August 14th which you were good enough to address me concerning the credits opened by the American Government in favor of Greece, I have the honor to inform you that Mr. Simopoulos, Minister of Greece at Washington, has been named as the representative of the Hellenic Government to take up this question with the World War Foreign Debt Commission and clothed with the necessary powers to make proposals on the subject.

Please accept [etc.]

A. HADJIKYRIACOS

800.51 W 89Greece/17

Memorandum by the Chief of the Division of Near Eastern Affairs (Dulles)

[WASHINGTON,] November 12, 1925.

The Greek Minister called to see the Secretary this morning and, finding that he was at the Treasury, came to the Near Eastern Division

⁴⁸ Not printed.

with the request that the Secretary be advised that the Legation had been instructed by the Greek Government to communicate to the Department that Mr. G. Cofinas, former Minister of Finance, and M. Drosopoulos, Director of the Public Debt, of Greece, were shortly coming to the United States to take up the funding of Greek indebtedness to this country.

In this connection the Minister referred to the recent conference he had had with the Secretary, when the latter had inquired at what time the Greek Government intended to take up the question of the funding of its debt, in view of the fact that our Legation at Athens had been informed, some weeks ago, of the appointment of a Greek Debt Funding Commission, composed of the Minister himself and Mr. Evlambios. Mr. Simopoulos said that he hoped that the delay in taking up the negotiations which would result from the sending of new negotiators from Greece would not inconvenience this Government. He realized that the Debt Funding Commission was occupied at the present time and had the Rumanian negotiations to take up when the Italian negotiations were finished. In view of this, he trusted the slight delay in dealing with Greece would be welcome rather than otherwise.

I told the Minister that I would pass on to the Secretary the information he had communicated. The Minister then asked me (1) whether I would be able to let him know personally whether the procedure contemplated by the Greek Government would be agreeable to this Government and (2) whether formal notification of the designation of Mr. Cofinas should be made.

I told the Minister that in my personal opinion any long delay on the part of the Greek Government would be unfortunate and that I hoped that the newly appointed representatives would proceed to this country at an early date. He said that he could assure me that they would.

In reply to the Minister's second inquiry, I stated that as we had been officially advised of his own designation and that of Mr. Evlambios as negotiators with the Debt Funding Commission I felt that it would be desirable to have a formal communication from the Greek Legation indicating the change which the Greek Government was suggesting in the personnel of its Mission and, also, as soon as possible, a definite statement as to the time when the Mission would proceed to the United States. In this connection I pointed out to the Minister that Congress would be assembling shortly, that several of the members of the Debt Funding Commission were also members of Congress and that, in addition, the Christmas and New Year holidays were not far distant. If the Mission did not come to this country promptly there might be considerable

delay in taking up the matter, which would only react unfavorably to Greece, since, as the Minister appreciated, the Department would not be disposed to view with favor Greek loan flotations until the debt matter was settled. In this connection I referred to the fact that the Greek indebtedness to the United States was relatively small and that the question ought to be a very simple one to deal with. To this the Minister replied that, quite the contrary, the Greek matter was by far the most difficult of all and, while he did not explain—and I asked for no explanation—in his allusion to the difficulty he undoubtedly had in mind the claims which Greece might set up under the 1918 Credit Agreement with Greece.

I told the Minister that I would communicate with him in case the Debt Funding Commission had any comment to make upon the informal communication which he had made to the Department regarding the new negotiators.

A[LLEN] W. D[ULLES]

800.51 W 89Greece/21

The Greek Minister (Simopoulos) to the Secretary of State

WASHINGTON, December 26, 1925.

The Minister of Greece presents his compliments to His Excellency the Secretary of State and referring to his *Note Verbale* November 16,⁴⁷ has the honor to inform him that, a special mission, consisting of Mr. George Cofinas, former Minister of Finance, and Mr. Michel Evlambios one of the Directors of the National Bank of Greece, will arrive to [in] Washington, Monday, December the twenty eighth.⁴⁸

Italy

800.51 W 89Italy/18 : Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

[Paraphrase]

ROME, February 16, 1925—6 p.m.

[Received February 16—5:17 p.m.]

34. Ambassador de Martino, who will sail for the United States on February 18, has informed me that he will be in a position to explain the attitude of the Italian Government on its war debt to the United States; Italy, he says, has no intention of repudiating this debt. The Government hopes, however, that Italy's resources and

⁴⁷ *Note verbale* of the Greek Minister not printed.

⁴⁸ For summary of the negotiations of the Greek mission, see *Combined Annual Reports of the World War Foreign Debt Commission*, pp. 76-77.

capacity to pay will be taken into consideration. I gather that the Government is not yet decided whether or not to negotiate for debt settlement with us at same time France does, perhaps conjointly with her. I have discouraged this view and have suggested that Italian Government negotiate without the interposition of third parties. It is my belief, however, that they will try to wait in order to see what arrangement we make with France.

FLETCHER

800.51 W 89Italy/28 : Telegram

The Secretary of State to the Ambassador in Italy (Fletcher)

[Paraphrase]

WASHINGTON, May 8, 1925—4 p.m.

53. In an interview with me yesterday the Italian Ambassador repeated what he had informally stated previously to Mr. Castle,⁴⁹ that his Government did not intend to do anything about the funding of the Italian debt to the United States until the French funding was arranged, and that whatever proposition his Government would make would be based on the French settlement, consideration being given to the fact that capacity of Italy to pay was not so great, even, as that of France. This was true, the Ambassador said, despite fact that Italian budget was in better condition than that of France by reason of imposition of taxes much higher than the taxes levied in France. He added that while he did not wish to notify this Government that Italy would not enter upon negotiations, he suggested that settlement with Italy should depend upon the settlement with France but with a margin of difference in Italy's favor.

I told the Ambassador that the United States could not recognize this attitude; that question of settlement of the debts was one solely between the debtor governments and the Government of the United States, and was not dependent upon what was done with any other government; that the United States could not consent to have the Italian Government wait until settlement had been made with France. I again called his attention to the fact that settlement of the debts was solely in hands of the World War Foreign Debt Commission, which had been appointed by Congress, and that the Secretary of State had no authority to make terms but that whatever negotiations there were should take place with the Commission or a representative of the Commission.

The Ambassador asked if I had any objection to his talking with the Secretary of the Treasury (the chairman of the Commission) and I said that I had not, that I should be very glad if he would talk with

⁴⁹ Chief of the Division of Western European Affairs, Department of State.

Mr. Mellon. I reminded the Ambassador of the fact that in 1922 the Italian Government had informed the American Ambassador that it was prepared to send a representative to the United States to negotiate with the Debt Commission,⁵⁰ and that I thought that the Italian Government should make this pronouncement effective and take up the matter of settlement of the debts without delay.

KELLOGG

800.51 W 89Italy/49 : Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

[Paraphrase]

ROME, September 2, 1925—3 p. m.

[Received 4:22 p. m.]

134. Italian Foreign Office has announced composition of delegation who will go to Washington in October to discuss debt settlement. It will be composed of Count Giuseppe Volpi di Misurata, Minister of Finance, who will be chairman of the delegation; Dino Grandi, Undersecretary of State for Foreign Affairs; Ambassador de Martino; Count Lelio Bonin Longare, formerly Ambassador to France; the Honorable Alberto Pirelli; and the Honorable Mario Alberti.⁵¹

The opinion continues to be maintained by the entire press that Italy is not able to pay anything like sums expected from her, and will not undertake to do so; that not only must principal be reduced but interest rate as well; and that rather than assume burden which they cannot carry, they will not make any settlement whatever.

FLETCHER

Latvia

800.51 W 89Latvia/44a

The Secretary of State to the Minister in Estonia, Latvia, and Lithuania (Coleman)

No. 273

WASHINGTON, July 20, 1925.

SIR: With reference to previous correspondence regarding the indebtedness of Latvia to the United States, you are informed that in a note dated June 26, 1925,⁵² the Latvian Minister at Washington

⁵⁰ See telegram No. 123, July 27, 1922, 1 p.m., from the Ambassador in Italy. *Foreign Relations*, 1922, vol. I, p. 408.

⁵¹ For negotiations and text of agreement signed Nov. 14, 1925, see *Combined Annual Reports of the World War Foreign Debt Commission*, pp. 217-241.

⁵² Not printed.

informed the Department of his instructions to negotiate the debt funding agreement and stated that he desired to enter into immediate discussions with the World War Foreign Debt Commission. This information was communicated to the Secretary of the Treasury and on July 8, 1925, Mr. Seya was introduced to Mr. Winston, the Acting Secretary of the Treasury and the Secretary of the World War Foreign Debt Commission, with a view to the inauguration of the negotiations in question.⁵³

I am [etc.]

For the Secretary of State:

J. BUTLER WRIGHT

Rumania

800.51 W 89Rumania/47 : Telegram

The Secretary of State to the Minister in Rumania (Jay)

WASHINGTON, February 16, 1925—3 p. m.

6. London Embassy reports acceptance on January 19 by Australia, Denmark, France, Great Britain, Norway, Sweden and Switzerland of Rumanian proposal of December 24 to refund her relief debt to them on a basis providing for the repayment of such debt in 30 years, interest during that period running at 5 per cent.

The Department is advising Treasury of the foregoing with a view to the consideration of the question by the World War Foreign Debt Commission and will send you further instructions. In the meantime Department desires your comments by telegraph particularly with reference to the question whether in your opinion there is any reason why this Government should not call upon the Rumanian Government to take prompt measures looking to a similar settlement of the Rumanian debt to the United States.

HUGHES

800.51 W 89Rumania/48 : Telegram

The Minister in Rumania (Jay) to the Secretary of State

[Paraphrase]

BUCHAREST, February 18, 1925—6 p. m.

[Received 10:08 p. m.]

10. Department's No. 6, February 16, 3 p. m. Legations here except British do not appear to take much interest in question, as it was British Government which not only took the initiative but conducted

⁵³ For negotiations and text of agreement signed Sept. 24, 1925, see *Combined Annual Reports of the World War Foreign Debt Commission*, pp. 182-193.

the negotiations presumably because their claims come to more than \$11,000,000, as against a total of about \$190,000 for all other countries. Local press has published nothing on subject, and I have received impression confirmed by commercial attaché's unsuccessful efforts to obtain information that British Legation is not anxious to enlighten us on the matter, but tomorrow I expect to see British Minister personally. I have, however, seen copies of notes to the Rumanian Government on the subject. The Swiss Minister stated that his Government took comparatively little interest in matter from smallness of amount involved, and was unaware that definite settlement had been reached until I informed him.

In an informal conversation this morning with Minister for Foreign Affairs he professed unfamiliarity with the question. I expressed very frankly my fear that unfortunate impression would be created in United States by this preferential treatment. He seemed to realize this fully and said he would have matter looked into and would give me full information in a very few days. As Finance Minister has undoubtedly handled whole matter I presume he must be consulted.

I see no reason at present why the United States should not press vigorously for a settlement but I prefer postponing a definite expression of opinion until I shall have heard further from the Minister for Foreign Affairs.

JAY

800.51 W 89Rumania/48 : Telegram

The Secretary of State to the Minister in Rumania (Jay)

[Paraphrase]

WASHINGTON, February 20, 1925—3 p. m.

7. Your No. 10, February 18, 6 p. m. The Department is fully informed in regard to funding agreements of Rumania with the Governments named in paragraph 1, Department's No. 6, and does not wish you to seek information nor to make representations in regard to it at this time. . . . Department would prefer to have Rumanian Government take the initiative in refunding matter; but in the absence of any indication that such step will be taken, the Department would seriously consider taking vigorous action.

HUGHES

800.51 W 89Rumania/49 : Telegram

The Minister in Rumania (Jay) to the Secretary of State

[Paraphrase]

BUCHAREST, February 22, 1925—4 p. m.

[Received 7:40 p. m.]

12. Referring to second paragraph of my No. 10, February 18, 6 p. m. I have not received information promised by Foreign Minister Duca, and shall not press for it.

It is my opinion that the Minister of Finance intends to wait until Mr. Kellogg assumes office,⁵⁴ in belief, apparently based on conversations with Mr. Kellogg in Paris,⁵⁵ that Department will be more amenable.

Minister Duca does not share Finance Minister's optimism but he is powerless. There were statements in the local press yesterday that Duca had offered his resignation because of difficulties arising in foreign affairs through Ministry of Finance, but today matter is reported to have been smoothed out by Prime Minister. I understand that Rumanian Minister to the United States deferred his sailing so as to return same ship with Mr. Kellogg.

Situation set forth above will probably hamper my efforts to bring about refunding. So far I have elicited only vague promises and I cannot see that negotiations on any pending question would be imperiled by taking most energetic action, but before Department actually takes forceful steps I wish to inquire if it would be disposed to allow me to forewarn Minister Duca in informal and friendly way that such action by it is now definitely imminent.

JAY

800.51 W 89Rumania/52 : Telegram

The Secretary of State to the Minister in Rumania (Jay)

WASHINGTON, March 17, 1925—7 p. m.

13. Please present textually the following note:

"In my note of October 21, 1924,⁵⁶ I had the honor to state that I had been instructed by my Government to refer to the assurances given by Mr. Bratiano on behalf of the Rumanian Government in his letter of May 17, 1919,⁵⁷ to a representative of the United States Treas-

⁵⁴ Mr. Kellogg succeeded Mr. Hughes as Secretary of State on March 5.

⁵⁵ At Finance Ministers Conference; see vol. II, pp. 133 ff.

⁵⁶ See Department's telegram No. 44, Oct. 15, 1924, 6 p. m., *Foreign Relations*, 1924, vol. II, p. 634.

⁵⁷ Not printed; see Roumanie, Ministère des Finances, *Annexes: Documents Concernant la Question des Réparations et des Dettes Interalliées de la Roumanie* (Bucarest, Imprimerie de l'Etat, 1925), annexe 20, p. 68.

ury, and to point out that in the light of these assurances, the Government of the United States was at a loss to understand the reports which it had received regarding the payment by Rumania of substantial sums to other governments on account of relief or reconstruction loans similar to those extended to Rumania by the United States, no corresponding payments having been made to the United States.

I have now been instructed to communicate to you the surprise and regret of my government that the Government of Rumania has not seen fit to furnish an adequate explanation of this apparent discrimination, although nearly five months have elapsed since the matter was officially brought to its attention. In the meantime, moreover, it appears that the Government of Rumania had made a proposal, dated December 24, 1924, to the Governments of Australia, Denmark, France, Great Britain, Norway, Sweden and Switzerland for the repayment within twenty years with interest at 5 percent of the relief indebtedness of Rumania to those Governments. According to the terms of this proposal, which, my Government is informed,⁸⁸ was accepted on January 19, 1925, by the several creditor governments named above, the principal and interest of the bonds to be issued by the Government of Rumania in exchange for the relief bonds heretofore held by the creditor governments in question are a charge upon all the assets and revenues of Rumania, and Rumania undertakes not only that the necessary sums will be included in the annual budget law for each year but also that the payment of the bonds shall be a first charge on receipts accruing to Rumania by way of compensation, reparation or indemnity, other than receipts by way of restitution in kind, from ex-enemy governments or any of them, subject to any charges already created in respect of previous loans.

As of November 15, 1924, the principal amount of the indebtedness of the Government of Rumania to the Government of the United States was \$36,128,494.94. Unpaid interest on that date aggregated \$9,476,953.85, making the total indebtedness of Rumania to the United States on November 15, 1924, \$45,605,448.79. The obligations of the Government of Rumania which are held by the Treasury of the United States are all overdue or payable on demand.

I am instructed to state that the Government of the United States cannot agree that Rumania should make no payments to the United States on account of this indebtedness while making payments to other governments on account of indebtedness to them incurred by Rumania for similar purposes. Consequently, it will not acquiesce in any discrimination against the United States in favor of other creditor governments either through agreements such as those recently concluded or otherwise. My Government, therefore, expects promptly to receive from the Government of Rumania an appropriate proposal for the refunding of its indebtedness to the United States."

Please reinforce note with vigorous oral representations.

Mail text of note to Amlegation, Belgrade for latter's strictly confidential information.

KELLOGG

⁸⁸ By despatch No. 1013, Jan. 21, 1925, from the Ambassador in Great Britain; not printed.

800.51 W 89Rumania/53 : Telegram

The Secretary of State to the Minister in Rumania (Jay)

[Paraphrase]

WASHINGTON, March 31, 1925—11 a. m.

18. Refer Department's No. 13, March 17, 7 p. m. Replying to a request for views of Department on a proposed loan of £1,500,000 to City of Bucharest,⁵⁹ answer has been made that the Department of State would not view with favor any proposal for flotation of a loan either to Government of Rumania or to any of its political subdivisions at present time in view of unsatisfactory treatment accorded American interests. You are at liberty at your discretion to use this information in your conversations with appropriate officials of Rumanian Government.

If by April 3 you have received no suitable reply to note presented by you pursuant to instruction telegraphed Department's No. 13, March 17, 7 p. m., you will on that day present the following note to the Foreign Office.⁶⁰

"I have been instructed by my Government to refer to my note of March 20 regarding the indebtedness of Rumania to the United States and to inquire when the Government of the United States may expect to receive from the Government of Rumania the proposal for the refunding of the latter's indebtedness to the United States which I had the honor to request in my above-mentioned note of March 20."

KELLOGG

800.51 W 89Rumania/55 : Telegram

The Minister in Rumania (Jay) to the Secretary of State

[Extract—Paraphrase]

BUCHAREST, April 6, 1925—noon.

[Received 11:49 p. m.]

29.

It is my personal impression, which I should like to have officially confirmed as far as possible through the Rumanian Legation in Washington, that the Rumanian Government, in despair at failures in the European markets, is making a sincere bid for American financial support, with corresponding advantages to us. For this reason I do not recommend too vigorous action at present, as at last the Government seems to realize absolute necessity of obtaining our good will.

JAY

⁵⁹ From Mr. F. O. March, New York City, under date of Mar. 26, 1925; letter not printed.

⁶⁰ Text of note not paraphrased.

800.51 W 89Rumania/62

The Minister in Rumania (Jay) to the Secretary of State

No. 745

BUCHAREST, April 9, 1925.

[Received April 25.]

SIR: I have the honor to refer to the Legation's Despatch No. 740 of March 27th last,⁶¹ transmitting copy of the Note presented to the Rumanian Foreign Office on the basis of the Department's telegraphic instruction No. 13 of March 17th, 1925, relative to the failure of the Rumanian Government to take any measures to refund its debt to the United States.

I am forwarding herewith enclosed in copy and translation the reply of the Rumanian Foreign Office to the above-mentioned Note: a summary of this reply was transmitted to the Department in this Legation's telegram No. 24 of April 1st last.⁶²

Copy of this reply is being forwarded to the Legation at Belgrade for its strictly confidential information.

I have [etc.]

PETER A. JAY

[Enclosure—Translation ⁶³]

The Rumanian Minister for Foreign Affairs (Duca) to the American Minister (Jay)

No. 16163

BUCHAREST, March 30, 1925.

MR. MINISTER: We have not failed to examine with the greatest care your note No. 21 of March 18, 1925.⁶³

Above all, we are anxious to assure the Government of the United States of America that it was never the intention of the Rumanian Government to take measures which would tend to favor other countries to the detriment of American financial claims.

We could not forget the help that the United States of America gave us during the war and along with this moral debt of gratitude we are fully conscious of the interest which the eventual cooperation of a power like the United States of America presents in view of our present economic development.

If we signed at London the arrangement relative to the "relief bonds," it was not at our request—as it would appear from your note of March 18th. On the contrary, in view of our present difficulties, we would have wished to postpone this arrangement. But we had finally to consent to it on account of its international character. In-

⁶¹ Not printed.

⁶² File translation revised.

⁶³ Minister Jay presented the note on March 20.

deed, these "relief bonds" represented essentially relief debts contracted under the auspices of an international organization with Allied and neutral countries. (Denmark, Norway, Sweden, Switzerland.)

Nevertheless, we did not accept it until it was established that it did not imply any obligation concerning war debts.

For us, hostilities did not, unfortunately, end on November 11, 1918.

During the whole year of 1919 we had to defend our frontiers against the Hungarian and Russian Bolsheviks.

On the other hand, abandoned in the midst of the struggle by Russia, we found ourselves completely isolated from our Allies, so that our real war debts to America were only contracted during the year 1919.

Under these conditions we think that these debts should not be assimilated with the "relief bonds," which were made the object of the London arrangement.

Rumania, as she has already declared on many occasions, has no thought of evading her obligations. She asks the Government of the United States of America simply not to demand of her any arrangement entailing the settlement of her debts with all her Allies—which would be, in the present circumstances, beyond her possibilities and forces.

Besides, the obligation to settle this question now by premature sacrifices, would hinder to such a point our recovery that the very people who would have to suffer most would be our creditors, whose best guarantee is our general financial and economic consolidation.

For this reason we hope that, far from seeing in our attitude a lack of good intentions toward the United States—a lack of good intentions which nothing would justify—the Government of the United States of America will be good enough to see therein simply a necessity imposed by our present situation.

With a view to the economic reconstruction of Europe, the United States of America has lately given its help to various countries. We cannot believe that it will refuse to Rumania the pursuit of its work of reconstruction to which she is consecrating all her efforts for the very purpose of being able in the future to meet her obligations.

Besides, as he declared to Mr. Kellogg, Mr. Vintila Bratiano, our Minister of Finance, or one of his authorized representatives, would like to go to the United States in order to explain to the American Government our situation and to furnish it the reasons for the requests above indicated.

Please accept [etc.]

I. G. DUCA

800.51 W 89Rumania/54 : Telegram

The Secretary of State to the Minister in Rumania (Jay)

WASHINGTON, April 9, 1925—1 p. m.

22. Your 24, April 1, 10 A. M.⁴⁴ Department finds Rumanian reply as summarized by you totally unsatisfactory and you are instructed to present the following note to the Foreign Office at the first suitable opportunity:

"I have the honor to inform you that I did not fail to communicate to my Government your Excellency's note of [March 30] and to state that I have been instructed to make the following reply thereto:

"The Government of the United States is pleased to note that the Government of Rumania has had no intention of favoring other countries to the detriment of the United States. It is, however, constrained to point out that the payments made by the Government of Rumania to certain creditor Governments on account of relief and reconstruction loans, to which reference was made in the note of October 21, 1924, from the American Chargé d'Affaires at Bucharest,⁴⁵ and the payments to be made by the Government of Rumania pursuant to the agreement recently concluded in London between that Government and the Governments of Australia, Denmark, France, Great Britain, Norway, Sweden and Switzerland, to which reference was made in the note of March 20, 1925, from the American Minister at Bucharest, do in fact constitute a serious discrimination against the interests of the Government of the United States in favor of the other Governments in question.

The Government of the United States is able to perceive no distinction between the post-armistice loans which it made to the Government of Rumania for relief and reconstruction purposes and the relief loans made by those creditor Governments in respect of which the Government of Rumania has made or is about to make payments, which might justify such payments by Rumania while disregarding her obligation to make payments on account of her indebtedness to the United States. It is true that the United States advanced a larger sum to Rumania for relief and reconstruction purposes than did any of the other creditor Governments concerned, but it cannot believe that the Government of Rumania will maintain that no steps should now be taken to adjust its indebtedness to the United States for the reason that it is greater in amount than its corresponding indebtedness to the several Governments concerned in the London arrangement. The Government of the United States does not demand for itself treatment more favorable than that which has been accorded by Rumania to its other creditors on account of relief and reconstruction loans, but the loans made by the Government of the United States are certainly no less entitled to repay-

⁴⁴ Not printed; see despatch No. 745 and its enclosure, *supra*.

⁴⁵ See Department's telegram No. 44, Oct. 15, 1924, 6 p. m., *Foreign Relations*, 1924, vol. II, p. 634.

ment than the loans made by the other Governments in question for similar purposes and the Government of the United States feels constrained to repeat that it is unable to agree that Rumania should make no payments on account of its relief and reconstruction indebtedness to it, while making payments to other Governments on account of an indebtedness toward them incurred for similar purposes.

The principle at issue, in the opinion of the Government of the United States, is one susceptible of satisfactory settlement without the delay and expense incident to the visit to Washington of a Rumanian Debt Mission. Furthermore, the Government of the United States feels that no useful purpose could be served by the visit of such a mission if, as indicated in the Rumanian Government's note of [March 30] it should be authorized merely to offer an explanation of the failure of the Rumanian Government to present a debt funding proposal. The position of the Government of the United States is clearly set forth in the concluding paragraph of the note of March 20, 1925, from the American Minister at Bucharest, and as stated therein, the Government of the United States expects promptly to receive from the Government of Rumania an appropriate proposal for the funding of the indebtedness of the latter to the United States."

[Paraphrase]

When you present the above note you should make as effective use as possible of the information contained in first paragraph of Department's No. 18, March 31, 1925. If pursuant to authorization contained in Department's instruction of November 7, 1924,⁶⁶ you have given Rumanian Government the impression that Department under certain circumstances might consider leaving the Legation in charge of a Chargé d'Affaires, you should at this time make similar intimation so that it will not appear that Department has in any way receded from its former position.

In view of the importance of these negotiations, Department desires that for the present you postpone your leave.

Your 29, April 6, noon, received, but Department does not see that it lessens the necessity for the action outlined above.

KELLOGG

800.51 W 89Rumania/54 : Telegram

The Acting Secretary of State to the Minister in Rumania (Jay)

WASHINGTON, April 11, 1925—4 p.m.

24. Bibesco ⁶⁷ was received by the Secretary on April 9 and was advised of the representations which you had been instructed to make to the Rumanian Government. See Department's 22, April 9, 1 p.m.

⁶⁶ *Ibid.*, p. 637.

⁶⁷ Prince Antoine Bibesco, Rumanian Minister at Washington.

A copy of the note quoted in that communication was later furnished him.

Bibesco was clearly informed of the great weight which this Government attached to receiving early assurances from the Rumanian Government that appropriate action would be taken in meeting the views of this Government with regard to the funding of its indebtedness for advances made after the armistice for relief and reconstruction.

Bibesco indicated that he had received word from his Government with regard to the proposed negotiations with the Standard Oil Company. In this connection Bibesco was informed that the attitude of this Government in asserting its clear rights could not be conditioned upon arrangements which might be reached with private American companies but that if these arrangements were of a character to facilitate action toward meeting its obligations to the United States, the Department would of course be glad to see a solution reached which would tend toward the settlement of outstanding questions both between the Rumanian Government and this Government and between the Rumanian Government and private American interests and nationals.

GREW

800.51 W 89Rumania/76 : Telegram

The Secretary of State to the Chargé in Rumania (Riggs)

WASHINGTON, July 18, 1925—2 p.m.

44. Bibesco informed Department July 15 that he was being called back to Bucharest for consultation and that he could inform Department that Rumanian Government was shortly to make proposals to this Government through you with respect to its indebtedness to the United States.

Press July 17th states that problem of relief indebtedness will receive serious consideration at Bucharest before arrival of new American Minister.⁹⁹ According to Associated Press despatch from Bucharest the Rumanian Government is preparing to send a commission of experts to the United States for preliminary discussion of arrangements for funding the war debt.

KELLOGG

⁹⁹ William S. Culbertson had been appointed Minister to Rumania on April 28, to succeed Peter A. Jay, who had been appointed Ambassador to Argentina on March 18.

800.51 W 89Rumania/77 : Telegram

The Chargé in Rumania (Riggs) to the Secretary of State

BUCHAREST, July 21, 1925—6 p.m.

[Received July 22—11:50 a.m.]

66. Department's 44, July 18, 2 p.m. Minister of Foreign Affairs summoned me today and dictated to me following statement:

"In reply to the various notes addressed to us relative to our debts to the United States I desire to communicate to you with the request kindly to notify your Government that we have summoned our Minister Bibesco to furnish certain complementary information on this matter but I am now directed to inform you that the Roumanian Government has decided to send a commission to Washington to examine with the American Government the bases on which an arrangement might be reached regarding the debts of Roumania to the United States."

To my questions Minister for Foreign Affairs replied commission probably exclusively technical experts and might possibly arrive at Washington beginning of September. Advised date not officially decided and subject to change as Minister of Finance leaving in a few days on vacation and may not return in time to make final arrangements.

RIGGS

800.51 W 89Rumania/79 : Telegram

The Chargé in Rumania (Riggs) to the Secretary of State

[Paraphrase]

BUCHAREST, July 27, 1925—11 a.m.

[Received July 28—12:57 a.m.]

67. Mr. Culbertson arrived July 25.⁷⁰ He wishes the following communicated to the Department:

Does the Department wish to press for definite proposal for funding of the Rumanian relief debt in accordance with telegraphic instructions No. 13, March 17, 7 p.m., and No. 22, April 9, 1 p.m., or is the oral communication made to Mr. Riggs by the Rumanian Government reported in Legation's telegram No. 66, July 21, 6 p.m., regarded as satisfactory reply and as transferring the negotiations to Washington on the same basis as the war debts of other nations? I should like to receive instructions whether I can render Department any service by remaining in Bucharest until the King returns or whether I should proceed to Geneva for conference with Minister of Finance Bratiano. The King is not expected to return for four or five weeks.

RIGGS

⁷⁰ Because of the King's absence, Mr. Culbertson was unable to present his letters of credence and Mr. Riggs continued to act as Chargé.

800.51 W 89Rumania/79 : Telegram

The Secretary of State to the Chargé in Rumania (Riggs)

[Paraphrase]

WASHINGTON, July 31, 1925—2 p. m.

45. Your 67, July 27, 11 a. m. For Culbertson. The Department does not regard the oral statement communicated to Mr. Riggs by Rumanian Minister for Foreign Affairs as satisfactory reply to its several communications to the Government of Rumania on the subject of that Government's indebtedness to the United States, and the Department would be glad to have you remain a few days in Bucharest if you think your influence informally exerted would be effective in eliciting more satisfactory statement from Government of Rumania.

You will appreciate that Department desires to have written reply to its notes that gives definite information on date of departure of the debt mission and contains assurances that mission will have sufficient authority to negotiate and agree upon suitable arrangement of debt funding with the World War Foreign Debt Commission. Department feels no useful purpose would be served by sending mission composed exclusively of technical experts without authority to negotiate an agreement; this information may be informally communicated to Rumanian Government.

Mr. Winston, Acting Secretary of the Treasury, informed Rumanian Chargé, in reply to latter's inquiry, that we would be prepared to receive the Rumanian debt mission in September, if it were duly empowered to act, and that burden of showing incapacity to pay in accordance with terms of British settlement is responsibility of the debtor. The showing should be such as will be persuasive upon American Congress, since any settlement must be approved by that body.

KELLOGG

800.51 W 89Rumania/89 : Telegram

The Chargé in Rumania (Riggs) to the Secretary of State

BUCHAREST, August 30, 1925—10 a. m.

[Received August 30—9:40 a. m.]

72. Department's 50, August 22, 3 p. m.⁷¹ In the course of a conversation yesterday, Minister of Foreign Affairs, who leaves for Geneva September 1st, presented formal written note signed by himself of which following is close translation :

"Following the declarations which I have already made to you, Roumanian Government has decided to send during the course of this autumn, a commission to the United States to examine with the

⁷¹ Not printed.

American Government the bases on which an arrangement might be reached as regards the debts of Roumania to the United States.

This commission will have the right to treat and eventually to sign an arrangement with the American Government."⁷²

Minister of Foreign Affairs stated commission will probably reach Washington around October 1st and certainly by the 15th, but although pressed to do so declined to embody any date specification in note.

King returns September 2d but Foreign Office states he will probably not be able to receive Culbertson until week later.⁷³

Riggs

Yugoslavia

860h.51/354

*The Minister in the Kingdom of the Serbs, Croats and Slovenes
(Dodge) to the Secretary of State*

No. 1795

BELGRADE, February 12, 1923.

[Received March 9.]

SIR: In my Despatch No. 1588 of September 26th last,⁷⁴ I had the honor to report upon certain credits contained in the Yugoslav Budget Law for the present fiscal year and particularly upon credits therein provided for the payment of one year's interest upon the advances of \$25,000,000 and \$15,000,000 respectively made by the Government of the United States to the Serbian Government. I observed that notwithstanding these credits, I had been unable to find any credit provided for the payment of interest on the \$12,000,000 advance made by the Government of the United States to the Serbian Government and I stated that for my information as to the reason for this I had addressed an informal inquiry to the then Minister of Finance, Dr. Kumanudi.

In Mr. Boal's Despatch No. 1351 of May 11th last,⁷⁵ he reported that, in accordance with the Department's Circular telegram dated April 21, 12 noon,⁷⁶ he had communicated to the Yugoslav Government the ratification of a Resolution adopted by the World War Foreign Debt Commission on April 18th last and had informed this Government that this Commission desired to receive any proposals or representations which the Yugoslav Government might wish to make for the settlement or refunding of its obligations under the

⁷² For negotiations with the World War Foreign Debt Commission and text of agreement signed Dec. 4, 1925, see *Combined Annual Reports of the World War Foreign Debt Commission*, pp. 52 and 241-253.

⁷³ Mr. Culbertson presented his credentials on September 12.

⁷⁴ Not printed.

⁷⁵ Not printed; Pierre de L. Boal was then Chargé at Belgrade.

⁷⁶ *Foreign Relations*, 1922, vol. 1, p. 399.

provisions of the Act of Congress approved February 9th 1922. Having received no reply to Mr. Boal's communication, I addressed on October 3rd last an informal letter to Mr. Gavrilovitch, Assistant Minister for Foreign Affairs, inviting his attention to this fact and requesting that a reply might be sent to me.

As I received no replies to either of my letters mentioned in the foregoing paragraphs, I invited Mr. Gavrilovitch's attention to them on several occasions and I was finally led to the opinion, corroborated by Mr. Gavrilovitch, that Dr. Kumanudi had no intention of replying to either of them. On the coming into office of the new Minister of Finance, Dr. Stojadinovitch, I invited his attention to my two letters in the course of a conversation and he requested me to send him copies of them, assuring me that they would have his immediate attention. Having done so I finally received on the 10th instant a letter dated the 7th instant, from Mr. Gavrilovitch in which he communicated to me the reply to both of my letters of the Minister of Finance. I enclose a copy and translation of this reply,⁷⁸ which will be observed to state that no credit for the payment of interest on the \$12,000,000 advance appears in the Budget Law because this advance was a war loan and it did not appear to be desirable that such loans should appear in the Budget as no definitive decision had yet been taken in regard to them and as interest on them was not effectually paid. The letter further states that interest credits on the \$25,000,000 and \$15,000,000 advances were entered in the Budget because these advances had been concluded after the Armistice but it expresses the opinion that these credits should also not have been entered as these two advances in reality belonged to the same category of war loans. The letter adds however that the foregoing is without prejudice to any decisions which may be taken with regard to the question of Inter-Allied war debts which must be treated and resolved separately.

It will be observed that the letter then states that due note has been taken of my communication to the effect that the \$12,000,000 advance bears interest. This is in reply to the Legation's Note to this effect written in accordance with the Department's Instruction No. 296 of March 30th last (File No. 860h.51-131)⁷⁸ and in view of Dr. Kumanudi's contrary opinion on this matter.

Finally the letter refers to my request for a reply to Mr. Boal's Note communicating the Department's circular telegram of April 21, 12 noon, referred to in the second paragraph of this Despatch, and states that this matter will be studied at once by the Minister of Finance, of whose decision I will be informed.

⁷⁸ Not printed.

Subsequently in conversation, Dr. Stojadinovitch has substantially repeated to me the contents of this letter and regarding the reply to Mr. Boal's Note has stated that this matter was one of considerable difficulty and required more consideration. He intimated that as the Yugoslav Government's finances stood at present, any interest payments would practically be impossible, but he intended, as already reported, to raise the taxation of the peasants in his Budget for the next fiscal year which he would present to the new Parliament which is to meet about April 18th. In regard to this plan, however it should be noted that it depends upon whether Dr. Stojadinovitch then remains in office which itself depends upon a Radical victory. It may nevertheless be said that practically any Cabinet which may come into power after the elections, will sooner or later find itself obliged to raise peasant taxation which without any undue hardship should increase the Government revenues very substantially. At present, as also reported, the taxation of the peasants, who form 85 percent of the population, is almost nil.

In this connection, and referring to my Despatch No. 1682 of November 13th last,⁷⁹ page 2, I may report that Dr. Stojadinovitch informed me in conversation a few days ago that as the amount of the Serbian war debt to France, amounting to about one billion gold Francs, had now practically been determined, he was about to send to the French Minister here a form of bond which he would be willing to sign in order thus to fund the Government's war debt to France. It will be remembered that the Government owes no post-war debt to France. As to the war and post war debts to England, Dr. Stojadinovitch stated that there was still too great a difference between the amount claimed by that country and the amount which his Government had ascertained to be due to allow of the funding of this debt at present by signing any bonds. The British war debt he estimated also at about one billion gold Francs and the post war debt at approximately 2,000,000 pounds Sterling. From Dr. Stojadinovitch's statements I understand that the difficulty in determining the amount of the British debt is still chiefly the old one involving the amount and cost of various military supplies received from the British authorities at Salonica. Dr. Stojadinovitch gave me to understand however that the giving of bonds whether to France or to England involved no question of paying interest on them, which was left for subsequent discussion.

I have [etc.]

H. PERCIVAL DODGE

⁷⁹ Not printed.

860h.51/862 : Telegram

*The Secretary of State to the Minister in the Kingdom of the Serbs,
Croats and Slovenes (Dodge)*

WASHINGTON, April 27, 1923—6 p.m.

4. Your despatch 1795, February 12. Department does not understand reasoning contained in Foreign Minister's note February 7. As pointed out in previous instructions all this indebtedness is on equal footing. This note, although ambiguous, seems to recognize this.

Please informally endeavor in every proper way to impress upon appropriate officials of the Yugoslav Government the particular importance to Yugoslavia of refunding its obligations to the United States. Department informed by Yugoslav Minister October 25 [1922]⁸⁰ that he had been authorized by his Government "to act in the place of former Minister Grouitch in the negotiations for the settlement or refunding of its obligations" but neither former nor present Minister has made any proposition to World War Foreign Debt Commission. It is very desirable that Yugoslav Government instruct Minister to initiate definite negotiations. In this connection you may point out orally and discreetly, if you deem it desirable, that such a step might favorably affect the credit of Yugoslavia in the United States and the market for its securities.

You should keep Department closely informed of developments as to refunding indebtedness to France and England, and satisfy yourself that no action is taken in this connection in disregard of assurance of treatment on equal footing contained in Vesnitch letters to Davis April 26 and June 4, 1919.⁸¹ See especially Department's instruction October 12, 1922.⁸²

HUGHES

⁸⁰ *Foreign Relations*, 1922, vol. i, p. 416.

⁸¹ In April, May, and June of 1919 there was an exchange of letters in Paris between Mr. Norman H. Davis, Finance Commissioner of the United States, and Mr. Pachitch, Prime Minister of Serbia, and Mr. Vesnitch, Serbian Minister to France and Delegate to the Peace Conference, in respect to advances and credits granted by the United States to Serbia for relief and reconstruction purposes since Nov. 11, 1918. This correspondence resulted in Mr. Vesnitch's giving, on behalf of his Government, certain assurances designed to have the effect of placing the United States on a plane of equality with other lending governments in respect to advances and credits of a similar nature granted by them to Serbia. (Letter from the Secretary of the Treasury to the Secretary of State, Sept. 24, 1921; not printed. File No. 860h.51/80.)

⁸² Not printed.

800.51 W 89Yugoslavia/13 : Telegram

*The Minister in the Kingdom of the Serbs, Croats and Slovenes
(Dodge) to the Secretary of State*

[Paraphrase]

BELGRADE, May 11, 1923—noon.

[Received May 12—10:20 a. m.]

6. In conferences with the Minister for Foreign Affairs and the Minister of Finance I spoke to them in the sense of your telegram No. 4, April 27, 6 p. m. The matter was referred to a Cabinet council, and yesterday decision was taken to send a mission to Washington in September or October next. The Minister of Finance has informed me that unfortunately an earlier date is impossible as the Parliamentary session is occupying all men suitable for the mission and also because of the holiday season.⁸³

DODGE

800.51 W 89Yugoslavia/38

*The Minister of the Kingdom of the Serbs, Croats and Slovenes
(Pavichich) to the Secretary of State*

DEAR MR. SECRETARY: Dr. Milorad Nedelkovitch, Dean of the Faculty of Belgrade University, Dr. George Djuritch, Professor of the University of Belgrade, and Dr. Michael Pupin, Professor of Columbia University and honorary Consul-General of the Kingdom of the Serbs, Croats and Slovenes, delegated by the Royal Government to discuss with the Government of the United States the settlement of the debt due by the Kingdom of the Serbs, Croats and Slovenes, will arrive in Washington of Friday next.

I will be greatly obliged if you could kindly indicate the day and hour when I may have the honor of presenting these gentlemen to you.⁸⁴

I take [etc.]

Dr. A. TRESICH PAVICHICH

WASHINGTON, March 18, 1924.

⁸³ The departure of the mission was postponed successively until February 1924.

⁸⁴ The Minister was informed that the Secretary of State would receive the members of the Yugoslav mission on March 22 at 12 o'clock.

On April 7 the mission appeared before the World War Foreign Debt Commission. Shortly after this one meeting, the Yugoslav mission left the United States. See *Combined Annual Reports of the World War Foreign Debt Commission*, pp. 27-28.

800.51 W 89Yugoslavia/42 : Telegram

*The Secretary of State to the Minister in the Kingdom of the Serbs,
Croats and Slovenes (Dodge)*

WASHINGTON, May 13, 1924—6 p. m.

14. Reference Department's 13, April 30, 5 P. M.⁸⁵ Please present the following note to the Yugoslav Foreign Office:

"The Government of the United States has been happy to receive the representatives specially appointed by the Government of the Kingdom of the Serbs, Croats and Slovenes to discuss with the World War Foreign Debt Commission the indebtedness of that Government to the Government of the United States, and has noted with satisfaction the assurances which it has received from Dr. Diouritch, Dr. Nedelkovitch and Mr. Pupin on the occasion of their conference with the World War Foreign Debt Commission to the effect that their Government regards its indebtedness to the United States as a financial obligation which will be honored in every respect and intends and desires to present a plan for refunding this indebtedness. It is, however, a matter of regret to the Government of the United States that the representatives of the Government of the Kingdom of the Serbs, Croats and Slovenes should have found themselves unable to make any definite proposals looking to the refunding of the indebtedness in question at the present time. The desire of the Government of the United States to reach a refunding agreement at the earliest possible moment was expressed by the World War Foreign Debt Commission to the representatives of the Government of the Kingdom of the Serbs, Croats and Slovenes. They were also informed that the Government of the United States desired to be assured that no step would be taken by the Government of the Kingdom of the Serbs, Croats and Slovenes prior to the refunding or discharge of the latter's indebtedness to the United States, with respect to any other indebtedness heretofore or hereafter contracted which should result in placing the United States in a less favorable position as a creditor than that which it occupies at the present time. In reply the Commission was informed that the Government of the United States could consider that it already had the desired assurance, which could readily be confirmed, to the effect that no step whatsoever was contemplated by the Government of the Kingdom of the Serbs, Croats and Slovenes which would affect the United States in the manner suggested.

I should, therefore, be glad if Your Excellency would be good enough to confirm my Government's understanding that, pending the refunding or satisfaction of the indebtedness in question, no action will be taken by the Government of the Kingdom of the Serbs, Croats and Slovenes with respect to any of its indebtedness heretofore or hereafter incurred which will result in placing the United States in a less favorable position as a creditor than that which it now occupies."

HUGHES

⁸⁵ Not printed.

800.51 W 89Yugoslavia/56

*The Minister in the Kingdom of the Serbs, Croats and Slovenes
(Dodge) to the Secretary of State*

No. 2572

BELGRADE, February 11, 1925.

[Received March 7.]

SIR: Referring to Mr. Paddock's Despatch No. 2494 of November 20th last,⁸⁶ relative to his further efforts to obtain the confirmation desired by the World War Foreign Debt Commission of certain assurances given by the Yugoslav Debt Mission to the effect that no action would be taken by the Yugoslav Government with respect to any of its indebtedness heretofore or hereafter incurred which would result in placing the United States in a less favorable position as a creditor than that which it now occupies, I have the honor to inform you that I have not failed to keep this matter in mind and to inquire from time to time about it in my conversations with the Ministers for Foreign Affairs and of Finance.

To-day in the course of a conversation with Dr. Stojadinovitch, the Minister of Finance, I again drew his attention to my note of May 15th last, which embodied your telegram No. 14 of May 13, 6 p. m., and to the many assurances which I had received from him and his predecessor, Dr. Mehmed Spaho, as well as from Dr. Nintchitch, the Foreign Minister, and his predecessor, Mr. Voja Marinkovitch. Dr. Stojadinovitch excused himself for not having replied sooner, referring to his numerous absences and to the recent elections, and stated that he had lately been considering his reply. He would now immediately study the question with Dr. Nedelkovitch, the former member of the Yugoslav Debt Mission who was now in Belgrade, and would send me a reply within a few days.

I then inquired as to whether his Government might be expected soon to make some definite proposals to my Government looking to the refunding of the indebtedness of the Yugoslav Government to the Government of the United States. In this connection I referred to the statements made to me by Mr. Marinkovitch, the Foreign Minister in the preceding Cabinet, Despatch No. 2463 of September 26th last,⁸⁶ to the effect that such proposals would soon be presented. Dr. Stojadinovitch replied that he had also given attention to this matter and that his Government desired to make a definite proposal as soon as possible and that he expected to do so during May or June next. I then inquired why his Government required so long a time in view of the long delay which had already elapsed since Mr. Marinkovitch's promise. Dr. Stojadinovitch replied that

⁸⁶ Not printed.

the British Government were pressing him to propose some plan for the payment of the bond for £1,880,000 which was due last month (Despatch No. 2462 [2463] of September 26, 1924) and that he had promised to make such a proposal during May or June. He thought it only proper that the two proposals should be made about the same time. There was however another reason for his wishing to delay somewhat and this was because he considered that as France was a much wealthier and larger nation than Yugoslavia, the latter should not submit its proposal first but wait until France had done so. However this view would not cause any real delay since he understood that the French Government had already made some tentative proposals.⁸⁷

I then inquired whether he could give me any idea of the proposals which he would make and he replied that they would probably be substantially similar to those proposed by the French Finance Minister, M. Clémentel, with whom he had lately talked in Paris, and would include a moratorium, say of ten years, and then payments extending over a considerable number of years at a very low rate of interest. Dr. Stojadinovitch did not consider that it would be necessary to send another debt mission to Washington, except possibly to settle the final details. Negotiations could be conducted through this Legation or the Yugoslav Legation in Washington. In this connection I may refer to the views of Mr. Marinkovitch regarding a funding plan, described in my Despatch No. 2463, above referred to.

While adding that I shall continue to keep the matters above reported in mind and report any further developments, I have [etc.]

H. PERCIVAL DODGE

800.51 W 89Yugoslavia/57 : Telegram

*The Minister in the Kingdom of the Serbs, Croats and Slovenes
(Dodge) to the Secretary of State*⁸⁸

[Paraphrase]

BELGRADE, March 9, 1925—3 p. m.

[Received March 11—1:15 p. m.]

9. I have received advance information from the Minister of Finance that British Government, in order to guarantee the British share of the Blair loan under the Trade Facilities Act, have demanded that the Yugoslav Government agree to a plan for re-funding its post-war advances for relief in kind and for reconstruc-

⁸⁷ See pp. 132 ff.

⁸⁸ Sent via the Embassy at Paris.

tion which amount to about £300,000. The plan suggested provides for refunding in 15 years.

The Minister of Finance expressed the belief that if the British proposal were accepted, the Government of the United States would demand adoption of a similar reimbursement plan and he declared that the resources of the Yugoslav Government would render the reimbursement of American advances in 15 years impossible.

DODGE

800.51 W 89Yugoslavia/58 : Telegram

*The Minister in the Kingdom of the Serbs, Croats and Slovenes
(Dodge) to the Secretary of State*

[Paraphrase]

BELGRADE, March 25, 1925—5 p. m.

[Received March 27—7:55 a. m.]

11. The Minister of Finance has requested me verbally to ascertain whether, if he accedes to the British refunding demand in connection with new issue of Blair loan, the Government of the United States will demand a similar reimbursement plan. Minister of Finance tells me that the new issue is to be used wholly for railroad construction beneficial economically to Yugoslavia, thereby increasing the security for American advances and that the British Government by offering to guarantee the British portion of the issue are offering a *quid pro quo* for the refunding plan. The Minister declares that if the Government of the United States insists upon similar reimbursement plan the new loan issue may be imperiled. In conversation he now appears to be indisposed to submit refunding proposal mentioned in my despatch No. 2572 of February 11, alleging as a reason lack of financial resources and that Yugoslav Government should not submit proposals before France. The present occasion may offer a favorable opportunity for pressing the Yugoslav Government to submit a moderate refunding plan for the post-war debt, if not of the entire debt, to the United States; without some such occasion as the present the Yugoslav Government will probably put off indefinitely submission of a plan.⁸⁹

DODGE

⁸⁹ In telegram No. 8, Apr. 3, 1925 (not printed), the Minister was instructed to state informally in writing that the Government of the United States is entitled to be treated on an equal footing with other governments with respect to its advances to the Yugoslav Government, and that the United States will insist that if any settlement is made by Yugoslavia with another creditor nation there shall simultaneously be made a suitable settlement with the United States of the indebtedness due it (file No. 800.51W89Yugoslavia/58).

800.51 W 89Yugoslavia/66

*The Minister in the Kingdom of the Serbs, Croats and Slovenes
(Dodge) to the Secretary of State*

No. 2680

BELGRADE, May 17, 1925.

[Received June 9.]

SIR: Referring to the last paragraph of my Despatch No. 2627 of March 26th,⁹⁰ last in which I stated that as a result of my continuing to press Dr. Stojadinovitch, the Minister of Finance, for the assurances regarding the Yugoslav debt to the Government of the United States, requested by my Note of May 15th, 1924, which embodied your telegram No. 14 of May 13, 6 p. m., 1924, I have the honor to inform you that I finally received a Note from the Foreign Office containing these assurances on the 16th instant. I enclose a copy and translation of this Note herewith.

The second sentence of the third paragraph of this Note read when I received it: "Il ne placera, par des arrangements spéciaux les Etats-Unis d'Amérique ni dans une situation moins favorable . . ." ("It will not by special arrangements place the United States of America in a less favorable situation . . ."). I availed of a call upon Dr. Stojadinovitch to invite his attention to this sentence and to inquire as to its exact meaning. Dr. Stojadinovitch informed me that the "special arrangements" referred to were intended to mean special arrangements for refunding debts such for example as the arrangement now being negotiated with the British Government for the refunding of its post-war relief and reconstruction advances (Despatch No. 2627 of March 26th last) but that if I preferred some modification of this phrase, he was prepared to make it. I thereupon suggested that some such phrase as "Il ne placera d'aucune manière" ("It will not in any manner place") would appear to include all possible acts on the part of the Yugoslav Government and seem to be more satisfactory. Dr. Stojadinovitch agreed to this modification and accordingly struck out the words "par des arrangements spéciaux" and interlined the words "d'aucune manière". The copies and translations enclosed are similarly obliterated and interlined so as to correspond with the original Note.

I expressed my regret that the Note was not more directly responsive in its form to the Department's telegram embodied in my Note. Dr. Stojadinovitch replied that he regretted that he had not had it written using the same terms but that I might be assured that its meaning was intended to be exactly responsive to my Note. I then said that I would communicate it to my Government.

⁹⁰ Not printed.

The paragraphs in the Note enclosed regarding the financial operations and foreign loans of the Yugoslav Government will be observed and are evidently intended as a further reply to the phrase in the Department's telegram requesting confirmation to the effect that "no action will be taken by the Government of the Kingdom of the Serbs, Croats and Slovenes prior to the refunding or discharge of the latter's indebtedness to the United States with respect to any other indebtedness heretofore or hereafter contracted which would result in placing the United States in a less favorable position as a creditor than that which it occupies at the present time." In connection with such loans, I may refer to the Department's Instruction No. 507 of July 22nd, 1924, in reply to my Despatch No. 2348 of May 27th, 1924,⁹¹ requesting a statement setting forth the Department's point of view regarding the relations between the assurances asked by the World War Debt Commission and further financial obligations which the Yugoslav Government might desire to incur.

I have [etc.]

H. PERCIVAL DODGE

[Enclosure—Translation ⁹²]

The Yugoslav Minister for Foreign Affairs (Nintchitch) to the American Minister (Dodge)

MR. MINISTER: By your letter No. 755 dated May 5th last you were good enough to ask me to confirm the assurances made by the delegates of the Royal Government especially appointed to discuss its debt to the United States of America before the Committee on Foreign Debts of the World War.

In confirmation of the assurances of the Delegates of the Royal Government I have the honour to make the following statement to you:

The Royal Government considers its debt to the United States of America as a financial obligation which has to be fully respected and it has the intention and the desire to pay it when the economic and financial recovery of the country will permit of it. It will not in any manner place the United States of America either in a less favorable position than another creditor of the Kingdom for the period from 1914 to 1920 or in a less favourable position than their present position as creditor.

By its financial operations and by its foreign loans since the conclusion of peace up to the present the Government of the Kingdom

⁹¹ Neither printed.

⁹² Revised translation supplied by the Yugoslav Government; filed separately under file No. 026 Foreign Relations/1449.

of the Serbs, Croats and Slovenes has had as its objective the economic recovery of its country devastated by war, the improvement of its financial position and the balancing of its budget.

The Royal Government hopes that the results obtained and to be obtained in this manner in the administration of public finances will permit of the economic recovery of the country necessary for its normal life and for the liquidation of the war debts.

The Government of the Kingdom of the Serbs, Croats and Slovenes ventures to express its profound conviction that the Government of the United States of America will recognize the justness of the principle in virtue of which the Kingdom of the Serbs, Croats and Slovenes deserves to obtain facilities for the liquidation of its war debts as well as those which may be accorded to other allied and associated states.

Accept [etc.]

M. NINTCHITCH

BELGRADE, *May 14, 1925.*

800.51 W 89Yugoslavia/90

*The Legation of the Kingdom of the Serbs, Croats and Slovenes
to the Department of State*

AIDE-MÉMOIRE

The Government of the Kingdom of the Serbs, Croats and Slovenes has appointed a Commission to come to Washington and arrange for the settlement of the Kingdom's war debt to the United States. The Commission consists of Dr. Milan Stoyadinovitch, Minister of Finance and chairman of the Commission; Mr. George Djuritch, Minister in London; Mr. Milan Radosavljevitch, Director of the Ministry of Commerce; Mr. Ranislav Avramovitch, former Assistant Minister of Communications; Mr. Ivan Svegel and Mr. Rudolph Stajmec. Dr. Pavle Karovitch is General Secretary of the Commission; Mr. Jovan Novakovitch, Secretary and Mr. D. Stoshovitch, Secretary. Prof. M. I. Pupin will be the adviser of the Commission, and Dr. A. Tresich Pavichich, the Minister in Washington, will assist the Commission in all questions related to the debt.

The Commission will depart for the United States from Cherbourg on January 6th aboard SS *Majestic*.⁸⁸

WASHINGTON, *December 29, 1925.*

⁸⁸ For negotiations and relevant documents, see *Combined Annual Reports of the World War Foreign Debt Commission*, pp. 79 and 278-288.

**INTEREST OF THE UNITED STATES IN THE DISPOSITION OF THE
PROPOSED LIBERATION BONDS OF THE AUSTRO-HUNGARIAN
SUCCESSION STATES***

463.00 R 29/163 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, January 21, 1925—3 p. m.

[Received 3:49 p. m.⁹⁵]

75. Sargent⁹⁶ has just sent me memorandum which British Embassy has been instructed to send in to the Ambassadors Conference:

"The Reparation Commission recently fixed the contributions towards the cost of liberation referred to in the St. Germain Agreement of the 10th September 1919, modified by the statements of December 18 [8], 1919,⁹⁷ as follows: Poland 225,495,000, gold; Roumania 235,140,000 gold francs; Serb-Croat-Slovene State 178,035,000 gold francs; Czechoslovakia 750,000,000 gold francs; total 1,388,670,000 gold francs. Italy 59,252,000 gold francs.⁹⁸

This re-partition does not take into account any questions which may subsequently arise in regard to the territory of Fiume.

In deciding to communicate the result of this re-partition and the above observation regarding the Fiume territory to the British, French and Italian Governments the Commission also decided to request these Governments to make known their opinion on the following points: (a) As to whether the United States of America should be consulted; (b) whether a formal request should be made for the issue of the bonds referred to in the agreements of 1919 in respect of the liberation debt; (c) if so to whom these bonds should be delivered.

In the opinion of His Majesty's Government the most convenient procedure would be for a decision on all these points to be reached by the Ambassadors Conference on behalf of the Governments concerned. If the Conference approves this course the British Embassy would propose that it reply to the inquiries of the Reparation Commission as follows: (a) That the United States [observer] on the Conference should be asked to express his views but that by mutual agreement the decision [on?] question whether the United States Government is being consulted as a matter of courtesy or as a matter of right should be left in abeyance; (b) that the Ambassadors Conference acting in the name of the Governments concerned should make a formal request for the issue of the bonds; (c) that the bonds should be delivered to the Reparation Commission as mandatory of the Governments concerned. It is to be noted that the Repara-

* Continued from *Foreign Relations*, 1924, vol. I, pp. 154-157.

⁹⁵ Telegram in three sections.

⁹⁶ Orme Garton Sargent, first secretary in the British diplomatic service, attached to the British Embassy at Paris for the work of the Conference of Ambassadors.

⁹⁷ Malloy, *Treaties*, 1910-1923, vol. III, pp. 3299 and 3303.

⁹⁸ For agreement with regard to the Italian reparation payments, and declaration modifying that agreement, see *ibid.*, pp. 3301 and 3305.

tion Commission decision does not take into account any questions which may subsequently arise with respect to the territory of Fiume.

His Majesty's Government understood from information received from the British representative on the Reparation Commission that that body has no official cognizance of the annexation of the territory of the Free City by Italy and that it was accordingly thought best to leave the matter open by making a reservation of a general nature about this territory. In these circumstances the British Embassy would propose that when notifying the Reparation Commission in the sense of (a), (b) and (c) the Ambassadors Conference should at the same time inform them officially of the annexation of Fiume to Italy under the provisions of the Italo-Yugoslav agreement of January 27, 1924."⁹⁹

In his letter Sargent stated that he wanted us to see this memorandum, which is dated January 8, 1925, before receiving it in the ordinary course from the Secretariat General and added that the procedure proposed is somewhat curious but that he hoped we would see no objection to it. Please instruct.

HERRICK

463.00 R 29/163 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, January 22, 1925—6 p. m.

52. Please show your 75, January 21, 3 P. M. to Logan¹ and request him to cable his comment to the Department with particular reference to any right or interest which he may feel the United States has under present circumstances in the bonds in question.

See L-89 from Logan, February 9, [1924,] 3 P. M. and Department's L-54, February 29, [1924,] 6 P. M.²

HUGHES

463.00 R 29/164 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, January 27, 1925—4 p. m.

[Received 5:43 p. m.³]

83. L-336. Your 52, January 22 to American Embassy Paris.

1. Problem presented indirectly raises question of method of our participation in reparation payments made by or on behalf of Austria

⁹⁹ League of Nations, *Treaty Series*, vol. xxiv, p. 37.

¹ Col. James A. Logan, Jr., American unofficial representative on the Reparation Commission.

² *Foreign Relations*, 1924, vol. i, pp. 154 and 155.

³ Telegram in two sections.

and Hungary. Consider it desirable that we take a definite stand on subject and for that reason following considerations are offered.

2. Informally understand that there will be a mixed claims commission to adjudicate American [claims] against Austria and Hungary.⁴ Whatever be the amount of awards it shall be seen that to collect them we shall have to reach an agreement with the Allies as in the case of Germany⁵ unless we employ sequestered Austrian and Hungarian property.

This latter method probably difficult in view of likelihood of the return of German property. It would seem that our treaty right[s] with respect to Austria and Hungary are identical with our treaty rights vis-à-vis Germany and that the arguments employed in the recent exchange of notes with England relative to Germany, apply with equal force to Austria and Hungary.

Granting then that we have claims against Austria and Hungary and enforceable right[s], the question of the method of exercising them arises.

3. As Department is aware Allied Powers in granting priority to Austrian reconstruction loan postponed their reparation claims for 20 years and we postponed maturity of our relief bonds.⁶ In the case of Hungary, Allies while granting a priority to its reconstruction loan, nevertheless insisted on certain considerable annual payments as reported in my L-96, February 22nd, and my letter of February 25th, 1924.⁷

[Paraphrase]

In consequence of the foregoing it now seems improbable that Austria will make direct payments for a long period and that, unless new arrangements prove to be possible, Hungary will not pay anything in addition to sums already allocated to Allies. There appears to be no substantial source, therefore, from which the United States could satisfy its claims in absence of special arrangement with Austria or Hungary, which might meet with objection from Allied Powers, except from proceeds of the liberation bonds. Value of these bonds is to be credited on Austro-Hungarian reparation account, and if distributed among powers the receiving powers will be debited on reparation account. In this connection see article 2 of Spa Agreement⁸ and paragraph 3, annex to Finance Ministers Agreement, March 11, 1922.⁹

⁴ See agreement between the United States and Austria and Hungary, Nov. 26, 1924, *Foreign Relations*, 1924, vol. I, p. 152.

⁵ See *ibid.*, 1925, vol. II, p. 133.

⁶ See *ibid.*, 1922, vol. I, pp. 613 ff.

⁷ Neither printed.

⁸ *Foreign Relations*, 1920, vol. II, p. 406.

⁹ *British and Foreign State Papers*, 1922, vol. CXVI, pp. 612, 621.

4. Czechoslovakia's liberation bonds have value as to same degree, as have also bonds of Poland. Probable that other states will have reparation claims so large as to outweigh their liberation bond issue.

5. I think that we have an interest in the distribution of these liberation bonds on account of our claims. I suggest that we take no action in the Conference of Ambassadors until March and then request that delivery of bonds should be made to Reparation Commission as trustee with instructions to it to make no disposition of the said bonds or of their proceeds except in agreement with the United States. In Conference of Ambassadors we could indicate that we had unsatisfied claims against Austria and Hungary and in consequence could claim share in amounts distributed.

6. In past negotiations on participation in German reparation payments we were criticized for delay in not advising the Allies that we intended to collect damages from Germany. I think it good tactics, therefore, in present matter to state our position in advance. As far as I am able to gather from present conditions apart from use of Austrian-Hungarian property in the United States and possible separate financial arrangements with Austria and Hungary, I am inclined to believe that the proceeds of the reparation [liberation?] bonds offer the most promising outlook for some payment in near future. It is desirable, therefore, to make statement.

Logan
HERRICK

463.00 R 29/166 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

PARIS, February 6, 1925—1 p. m.

[Received February 6—11:40 a. m.]

108. My 75, January 21, 3 p. m. British memorandum was adopted by the Conference this morning, subject to my reservation that I had as yet received no instructions.

WHITEHOUSE

463.00 R 29/166 : Telegram

The Secretary of State to the Chargé in France (Whitehouse)

WASHINGTON, February 7, 1925—2 p. m.

76. Your 108, February 6, 1 P. M.

(1) In view of suggestion in Logan's L-336, January 27, that the United States may be interested in the liberation bonds, and his

suggestion in paragraph 5 that action of the Conference of Ambassadors be deferred until March, Department regrets that the matter was permitted to be acted upon by the Conference pending instructions from the Department.

(2) Is the Department to understand that Conference of Ambassadors will not reply to Reparation Commission along lines proposed in British memorandum until you have received instructions respecting the views of this Government regarding the British proposal?

Please cable reply, and give Logan copy of this message and your reply.

HUGHES

463.00 R 29/167 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

[Paraphrase]

PARIS, February 9, 1925—6 p. m.

[Received 6:50 p. m.]

115. Your No. 76, February 7, 2 p. m. The Conference of Ambassadors will not reply to the Reparation Commission until I have received your instructions.

From Department's previous telegrams, I have understood that this decision is more or less in accordance with our interests, except for wording of answer to question (c), which Department may desire be modified along lines of Logan's telegram L-336 (January 27), paragraph 5, by adding statement that any financial arrangement of bonds is to be made only in agreement with United States.

It seems to me that, in view of answer to question (a) that United States should be consulted, it will be difficult for Allies to refuse to accept modification along that line. If this prove to be so, I suggest that it would be better to wait until the Reparation Commission has received this official communication before any statement is made about our general attitude on this question. Should Conference raise difficulties, however, it might be advisable to have statement ready to present, thus immediately throwing question wide open and causing the Ambassadors to say that they would have to refer the matter to their Governments.

I have consulted Mr. Hill,¹⁰ and he concurs with this view.

WHITEHOUSE

¹⁰ Ralph Waldo Snowden Hill, of the Office of the Solicitor for the Department of State, had been sent to Paris to assist Colonel Logan.

463.00 R 29/169 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, February 17, 1925—4 p. m.

[Received February 17—2:36 p. m.]

126. My 115, February 9, 6 p. m. I have today received the following draft resolution:

"The British, French, and Italian Governments in view of the resolution of the Reparation Commission 2990 of November 4th, 1924,¹¹ resolve, subject to the remarks which may be later presented by the Government of the United States of America and it being understood that this reservation leaves open the question as to whether the Government of the United States of America was consulted by courtesy or by virtue of the rights which it holds under the treaties,

1. To request the Reparation Commission: (a) To invite the Polish, Roumanian, Serb, Croat and Slovene and Czechoslovak Governments to issue the bonds provided for by article 4 of the arrangement of September [10], 1919, as modified by the declaration of December 8, 1919; (b) to have the said bonds delivered; (c) to hold them as trustee of the British, French, and Italian Governments.

2. To notify officially to the Reparation Commission the annexation of Fiume to Italy according to the terms of the Italo-Serb agreement of January 27th, 1924."

Hill informed.

HERRICK

463.00 R 29/169 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, February 24, 1925—4 p. m.

99. Your 126, February 17, 4 P. M. regarding liberation bonds, You may inform the Conference of Ambassadors that the Government of the United States is of the opinion that it is entitled to be consulted as to the disposition of the bonds to be issued by the Governments of Poland, Rumania, the Serb, Croat and Slovene State and Czechoslovakia under the provisions of the agreement of September 10, 1919, as modified by the declaration of December 8, 1919, and that in the exercise of such right it declares that it offers no objection to the delivery of these bonds when issued to the Reparation Commission. You should add that in view of the claims which the United States has against the Governments of Austria and Hungary and which are the subject of a tri-partite claims agreement signed in

¹¹ Not printed.

Washington, November 26, 1924,¹² the Government of the United States cannot concur in an instruction to the Reparation Commission to hold these bonds as trustee for the British, French and Italian Governments alone. It suggests therefore that the Commission be instructed to hold the bonds as trustee for the American, British, French, and Italian Governments with the understanding that any final disposition or distribution of the bonds or their proceeds shall be made only in agreement with the United States.

Please give copy of this telegram to Logan as Department's L-220.

HUGHES

463.00 R 29/169 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, February 24, 1925—5 p. m.

100. For Logan, L-221. Your L-336, January 27, 4 p. m. See Department's telegram No. 99, this date, to Embassy, which will be L-220 in your series.

The Department is not clear in regard to the procedure to be followed, especially whether provisions of Finance Ministers Agreement of March 11, 1922, and annex, on use of series C bonds in part settlement of obligations Poland, Rumania, Czechoslovakia, Italy, and Yugoslavia are still in force, or whether liberation bonds for full amount of liberation quotas are to be issued by the Governments named, and delivered to Reparation Commission.

Purpose of telegram No. 99 to Embassy is to protect position of this Government in regard to the liberation bonds, but instruction does not cover matter of C bonds on which Conference of Ambassadors is taking no action; Department would be glad to have your comment on desirability of claiming share in any C bonds delivered by cessionary states on account of liberation debt or in any of same bonds distributed under plan outlined article XI, Finance Ministers Agreement, March 11, 1922, on account American claims against Governments Austria and Hungary.

Consult with Embassy and report any information that is discreetly available on what may be intended in regard to C bonds or liberation bonds.

HUGHES

¹² *Foreign Relations*, 1924, vol. I, p. 152.

463.00 R 29/171 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, March 3, 1925—noon.

[Received March 3—11:02 a. m.]

150. Your 99, February 24, 4 p. m. Memorandum was presented to the Conference of Ambassadors at its 275th meeting this morning. No comment was made but it was reserved for future discussion.

HERRICK

468.00 R 29/171 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, March 10, 1925—5 p. m.

[Received 5:05 p. m.]

169. L-361. Referring to Department's L-221, February 24, 5 p. m. C bonds have never been distributed. Only one certificate for entire amount (82 milliards) has been issued and this is held by the Reparation Commission. I understand that distribution is not now contemplated.

Bearing in mind that the total of A, B, and C represents total Allied reparation claim of 130 [132] milliards against all Central Powers, for the full amount of which Germany is held liable under the reparation part of Treaty of Versailles, any payment on reparation account of Germany's allies should be credited on the total sum for which Germany is held liable. For this reason article XI of Finance Ministers Agreement of March 11, 1922, looked to distribution among claimant powers of C bonds to extent of the reparation claims determined to be due from Germany's allies, and provided that the powers receiving payments in cash or in kind from Austria-Hungary and Bulgaria should return to the Reparation Commission "for cancelation" C bonds to the value of these payments. Had C bonds been distributed therefore, payments on account of reparation obligations of latter states would have involved a cancelation of the C bonds.

The only information I have about possible distribution of liberation bonds is article 2 of the Spa Agreement. Logan.

HERRICK

463.00 R 29/174 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, May 4, 1925—4 p.m.

[Received May 4—4 p.m.]

262. Your 99, February 24, 4 p.m., and my 150, March 3, noon. British Embassy has sent me copy of a memorandum which it is presenting to the Conference of Ambassadors which after referring to our memorandum of March 3 states that

“The British Embassy is now instructed to inform the Conference that His Majesty’s Government would prefer, at this stage, not to raise at all the question of the governments which might be entitled to share in payments made in respect of these bonds. In the opinion of His Majesty’s Government, it would be preferable merely to deliver the bonds to the Reparation Commission without requesting it to hold the bonds as trustee for any particular governments and the British Embassy accordingly has the honor to propose that the memorandum which it communicated to the Conference on January 8th should be modified accordingly. The British Embassy has also the honor to suggest that the Conference should give an assurance to the representative of the United States of America that, should a decision be taken in this sense, it would in no way prejudice any claim which the United States Government might desire hereafter to make, to share in the payments made under these bonds. The Conference would merely defer any expression of opinion in regard to any such claim until it was actually raised and the grounds on which it might be made were more fully stated.[”]

[Paraphrase.] Both Hill and I think this unsatisfactory and Hill is of the opinion that we should not agree to the British proposal but that we should insist upon a decision whereby the Reparation Commission would be instructed to hold the bonds as trustee for the Governments of the United States, Great Britain, France, and Italy. Hill points out that the agreement of September 10, 1919, as amended December 8, 1919, contains no provision for ratification and that its ratification by the United States is not in fact necessary; that the Governments of the United States, Great Britain, France, and Italy are accorded alike precisely the same rights under the agreement, and that no one of those states can be deprived of them without its consent.

Respectfully request instructions. [End paraphrase.]

HERRICK

463.00 R 29/174 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, May 5, 1925—6 p.m.

186. Your 262, May 4, 4 p.m. The Department agrees with you that the British memorandum is unsatisfactory and that when question again is brought up before the Conference of Ambassadors you should insist that, as set forth in Department's telegram No. 99, February 24, 4 p. m., the Reparation Commission be instructed to hold liberation bonds as trustee for Governments of United States, Great Britain, France, and Italy with the understanding that any final distribution or disposition of bonds or of their proceeds shall be made only in agreement with the Government of the United States. You will inform Hill. Logan concurs in position taken by Department.¹³

KELLOGG

463.00 R 29/177 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, June 12, 1925—2 p. m.

[Received June 12—11:20 a. m.]

326. British memorandum quoted in my 262, May 4, 4 p. m., was on the agenda of the 281st meeting of the Conference of Ambassadors held this morning. I stated that my Government regretted that it was unable to accept the British proposal and maintained the point of view set forth in the memorandum that I presented at the 275th meeting of the Conference on March 3rd. British Ambassador on being asked his opinion by Cambon¹⁴ said that as it seemed unlikely that the American Government would modify its point of view he would suggest that the Conference adopt his proposal subject to the reserve of the United States Government. At this point the Italian Ambassador interrupted to say that he was expecting instructions from his Government on this matter which had not yet arrived and he therefore requested a postponement.

As my role is that of an observer and I do not vote, rule of unanimity will not come into play and it will be difficult to prevent the Conference, if it wishes to, from adopting the British Ambassador's proposal.

HERRICK

¹³ Logan had returned to the United States; he resigned from the Commission in May 1925, and was succeeded by Hill in June 1925.

¹⁴ Roger Paul Jules Cambon, counselor of the French Embassy in Great Britain, representing France in the Conference of Ambassadors.

463.00 R 29/177 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, June 30, 1925—7 p. m.

245. Embassy's 326, June 12, 2 p. m., final paragraph. Question of disposition of the liberation bonds is one between the Governments of the United States of America, the British Empire, France, and Italy, named in agreements of September 10 and December 8, 1919; these agreements are separate and distinct from the treaties of peace both in purpose and in subject matter, and, unlike the treaties, they do not require ratification. They impose certain duties and confer certain rights upon the Government of the United States, and the latter can neither be relieved of its duties nor deprived of its rights without its consent.

Question at issue is not one to be determined among Allied Governments alone. It is specifically one for determination between Governments named in articles 4 and 5 of the agreements. Conference of Ambassadors as such has no competency to deal with question unless specifically authorized by the interested Governments, of which the Government of the United States is one. In event that Conference of Ambassadors should be so authorized, it may be looked upon as a Conference *ad hoc* of representatives of the Governments concerned. Moreover, as the decision rests with the four Governments named in the agreements, the Government of Japan, although it has a permanent representation on the Conference of Ambassadors, has no voice in the decision.

The fact that you sit as an observer on the Conference and do not vote on matters which are of no direct interest to this Government is wholly immaterial. When questions such as the present one arise in which the Government of the United States has a definite and direct interest, you, as the representative of this Government, have every right to be heard, to record views of your Government, and, if necessary, to vote.

You may make use of the foregoing statements when question of liberation bonds again is brought before Conference, and you should repeat with emphasis statement contained in Department's No. 99, February 24, 4 p. m., adding that if agreement cannot be reached by you with representatives of the British, French, and Italian Governments in Paris, the Government of the United States requests that any further discussion of matter be deferred until it has had opportunity to take up question directly with Governments of France, Great Britain, and Italy.

While the Department does not believe that there is any occasion for you to embark upon any discussion of scope of authority accorded Conference of Ambassadors as such, you will observe from minutes of various discussions in Supreme Council which finally resulted in setting up of Conference of Ambassadors that Conference is one of representatives of Governments sitting in interim between meetings of Supreme Council; that Governments concerned are left entirely free to determine who shall represent them on the Conference; and that authority of the Conference extends only so far as those Governments shall specifically authorize.

Since the Government of the United States in this matter enjoys certain rights irrespective of its ratification or nonratification of the treaties of peace, the decision is one to be determined solely by the four Governments concerned. Form and manner of reaching decision is for them alone to decide; and while this Government may not have any objection if matter is discussed between representatives of the four Governments who sit on Conference of Ambassadors, it must be understood clearly that it is not Conference of Ambassadors as such which takes decision but Governments concerned acting through their duly authorized representatives.

You will also recall that the Government of the United States in May 1921 was invited to be represented on Supreme Council, and accepted the invitation; and that Mr. Harvey, the American Ambassador in Great Britain, was designated to represent this Government on Supreme Council whenever questions in which the Government of the United States was directly concerned should arise for discussion.¹⁸ Inasmuch as Conference of Ambassadors is dependent upon Supreme Council and holds its authority from the Governments, the right of Government of the United States to participate fully whenever a matter should come up for discussion in which this Government has a direct interest is not open to question.

KELLOGG

463.00 R 29/180

*The Unofficial Representative on the Reparation Commission (Hill)
to the Secretary of State*

PARIS, 30 October, 1925.

[Received November 7.]

SIR: Referring to the Department's telegram No. 245 of June 30, 1925, 7 p. m., to the American Embassy at Paris, and to other correspondence concerning the question of Liberation Bonds, I have the honor to enclose for the Department's information, two copies of a communication dated October 27, 1925, just received from the Finance

¹⁸ See *Foreign Relations*, 1921, vol. I, pp. 12-15.

Section,¹⁷ together with two copies of the letter transmitted therewith from the French Delegation to the Reparation Commission, dated October 26, 1925,¹⁷ in which it is stated that the French Government considers it preferable in the present circumstances not to provoke any demand for the issue of bonds referred to in the agreement of 1919 with respect to the Liberation Debt.

A copy of these documents has been transmitted to the Embassy here for its information.

I am [etc.]

RALPH W. S. HILL

463.00 R 29/181

*The Unofficial Representative on the Reparation Commission (Hill)
to the Secretary of State*

PARIS, 7 December, 1925.

[Received December 16.]

SIR: Supplementing my letter to the Department of October 30th last concerning the question of Liberation Bonds, (share of the cessionary States of the former Austro-Hungarian Monarchy), I have the honor to enclose for the Department's information, two copies of a communication dated December 5, 1925,¹⁷ transmitting a letter from the British Delegation to the Reparation Commission, dated December 3, 1925,¹⁷ in which it is stated that the British Government takes the view that it would be preferable not to call for the issue of the bonds in the present circumstances (F. S. Document 60-a).

A copy of these documents has been transmitted to the Embassy here for its information.

I am [etc.]

RALPH W. S. HILL

**REFUSAL BY THE UNITED STATES TO CONSENT TO THE ADHERENCE
OF THE SOVIET UNION TO THE SPITZBERGEN TREATY OF
FEBRUARY 9, 1920¹⁸**

857H.01/36

The French Ambassador (Daeschner) to the Secretary of State

[Translation¹⁹]

WASHINGTON, April 7, 1925.

MR. SECRETARY OF STATE: Article 10 of the treaty of February 9, 1920, relative to Spitzbergen²⁰ makes it a condition for the adherence

¹⁷ Not printed.

¹⁸ For previous correspondence concerning the adherence of the Soviet Union to the treaty, see *Foreign Relations*, 1924, vol. 1, pp. 1 ff.

¹⁹ File translation revised.

²⁰ *Foreign Relations*, 1920, vol. 1, p. 78.

of Russia that a Russian Government shall be recognized by the High Contracting Parties: "Until the recognition by the High Contracting Parties of a Russian Government shall permit Russia to adhere to the present Treaty, Russian nationals and companies shall enjoy the same rights as nationals of the High Contracting Parties."

The Soviet Government having since informed the Norwegian Government that it acknowledged the sovereignty of Norway in Spitzbergen and made no objection to the treaty of February 9, 1920, being put into operation, it seemed to the French Government that it would be advantageous to secure the formal adherence of the Soviet Government without giving the said Government any ground upon which to claim recognition by all the signatory powers on the strength of article 10.

To that end under instructions from the French Government my predecessor laid before the American Secretary of State a draft protocol stating that the powers signatory to the treaty of February 9, 1920, had agreed that "notwithstanding the stipulation in article 10, Russia be permitted to give its adherence even though all the High Contracting Parties have not yet recognized the existence of a Russian Government."

While concurring in the French Government's suggestion to let Russia adhere to the treaty concerning Spitzbergen without waiting for the recognition of the Government of the Union by all the signatory powers, the Honorable Mr. Hughes asked Mr. Jusserand in behalf of the American Government that instead of the protocol originally contemplated there be substituted an agreement calling for ratification. He also expressed a desire that it be clearly specified that the signature of the United States, if eventually placed on that agreement, could in no wise be regarded as implying its recognition of the Soviet Government.

I have the honor to inform Your Excellency that my Government, so far as it is concerned, sees no objection to concurring in the views of the American Government.

Nevertheless the language of the draft agreement handed by Mr. Grew to Mr. de Laboulaye on July 15 last,²¹ and forwarded to the Minister of Foreign Affairs, calls in its turn for a reservation which is considered to be essential. It bears on the style of designation of the Government of the Union. The American draft speaks of the regime "now functioning in Russia and known as the Union of the Soviet Socialist Republics". This designation is open to two objections:

1. One of a judicial nature: A regime cannot be party to a treaty;
2. A more serious objection of political character: The American

²¹ *Foreign Relations*, 1924, vol. 1, p. 5.

designation carries a somewhat disparaging sense, and it is to be feared that under those conditions some of the signatory powers that have recognized the Government of the Union may hesitate to affix their signatures to a document which they might believe likely to wound the susceptibilities of the Soviets.

The French Government therefore suggests, subject to any other minor change without, however, bearing on the substance, that there be substituted for the sentence "that some of them recognize the regime now functioning in Russia and known as the Union of the Soviet Socialist Republics" the sentence "now acknowledging the existence in Russia of the Union of the Soviet Socialist Republics".

I therefore have the honor to submit to Your Excellency the enclosed draft arrangement²² which takes into account as far as possible the wishes of the Government of the United States and seems to my Government to contain a formula that will be acceptable to all the powers.

Be pleased [etc.]

E. DAESCHNER

857H.01/36

*The Acting Secretary of State to the French Ambassador
(Daeschner)*

WASHINGTON, May 12, 1925.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of April 7, 1925, in further relation to the question of the adherence of Russia to the Treaty of February 9, 1920, concerning Spitzbergen.

You state that your Government concurs in the views of this Government that the adherence of Russia to the Treaty should be effected through an agreement calling for ratification, but that it perceives objection to the designation "the regime now functioning in Russia and known as the Union of the Soviet Socialist Republics" which is used in the draft agreement handed to Mr. de Laboulaye by Mr. Grew on July 15, 1924.

This Government has given careful consideration to the views of the French Government in the matter as expressed in your note of April 7, 1925, and I now enclose a draft of the proposed agreement which it is believed is in harmony with the views of the French Government as set forth in your note.

Accept [etc.]

JOSEPH C. GREW

²² Not printed

[Enclosure]

*Proposed Draft of Agreement Relative to the Adhesion of Russia
to the Spitzbergen Treaty*

The United States of America, the British Empire, Denmark, France, Italy, Japan, Norway, the Netherlands, and Sweden, signatories to the Treaty concluded in Paris on February 9, 1920, concerning Spitzbergen, having found that some of them have recognized what is known as the Union of the Soviet Socialist Republics, as the Government of Russia, and that those who do not so recognize that Union are, under the following conditions, not opposed to the adherence of Russia to the Treaty through that agency:

Have agreed, notwithstanding the stipulation in the first paragraph of Article 10 of the Treaty, to permit Russia to adhere to the said Treaty even though all of the High Contracting Parties have not at this time recognized what is known as the Union of the Soviet Socialist Republics, on condition and with the definite understanding that the absence of objection to such adherence of Russia on the part of any of the High Contracting Parties, shall not be interpreted in any way as implying any recognition whatsoever of that Union as the Government of Russia, by any High Contracting Party which has not recognized it as the Government of Russia.

The present agreement shall be ratified by all of the High Contracting Parties. Each High Contracting Party shall in the shortest possible time send its ratification to the French Government which will see to its being notified to His Majesty the King of Norway and to the other High Contracting Parties. The ratifications shall remain on deposit in the Archives of the French Government. The present Agreement shall go into effect for each High Contracting Party on the date of the deposit of its instrument of ratification.

Done at Paris 1925, in duplicate originals, one of which will be transmitted to the Government of His Majesty the King of Norway, and the other deposited in the Archives of the Government of the French Republic, by which Government an authenticated copy thereof will be delivered to each of the other High Contracting Parties signatory to the said Treaty of February 9, 1920, or an adherent thereto.

857H.01/41

The French Ambassador (Daeschner) to the Secretary of State[Translation ²²]

WASHINGTON, June 16, 1925.

MR. SECRETARY OF STATE: Referring to Your Excellency's letter of May 12, last, I did not fail to forward to my Government the American draft for the wording of the clause relative to the adherence of Russia to the treaty of February 9, 1920, concerning Spitzbergen.

In place of the formula "some of them at present recognize the existence in Russia of the Union of the Soviet Socialist Republics", the Government of the United States would like to substitute the phrase "some of them have recognized 'what is known' as the Union of the Soviet Socialist Republics".

My Government observes that this last wording takes into account the objection of a judicial nature raised by it. From a political standpoint, however, it does not believe it would meet the objections which I had brought to Your Excellency's notice in my note of April 7, last, and in my Government's opinion, there is reason to fear that the powers that have recognized the Government of the Union may not be in a position to accept it.

For that reason, I have been instructed to seek, together with Your Excellency, some designation that would bring about an agreement among all the signatory powers parties to the agreement of February 9, 1920, whether or not they have recognized the Government of the Union. A phrase juridically adequate appears to be rather difficult to find, since it is about a designation that would equally take into consideration the position of the Governments that have and those that have not recognized the Government of the Union.

To that end the Minister of Foreign Affairs has just forwarded to me another draft of a text which I have the honor to append to this note,²⁴ and in which the formula "what is known as the Union of the Soviet Socialist Republics" is superseded by the phrase "Federation designated by the name of the Union of the Soviet Socialist Republics". I should be much obliged to Your Excellency if you would kindly let me know whether this draft is such as to win the approval of the Government of the United States.

If not, I shall endeavor to join Your Excellency in seeking the wording of a final text which will be such as to satisfy all the contracting parties.

Be pleased [etc.]

E. DAESCHNER

²² File translation revised.

²⁴ Not printed.

857H.01/41

The Acting Secretary of State to the French Ambassador (Daeschner)

WASHINGTON, July 3, 1925.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of June 16, 1925, in which you state that you forwarded to your Government the proposed draft of agreement relative to the adhesion of Russia to the Spitzbergen treaty which was transmitted to you in the Department's note of May 12 last.

You state that your Government believes that the clause "what is known as the Union of the Soviet Socialist Republics" used in the American draft agreement may not be acceptable to all the Powers, and that it accordingly suggests that there be substituted in place thereof the clause "Federation designated by the name of the Union of the Soviet Socialist Republics". You transmit with your note a draft of the proposed agreement which embodies the change suggested by you and inquire whether this draft meets with the approval of the Government of the United States.

My Government feels that it can not accept in its entirety the substitute clause proposed by you and suggests that the word "Federation" as used therein be replaced by the word "entity". I accordingly have the honor to transmit to you herewith a redraft of the proposed agreement²⁵ in which the clause "entity designated by the name of the Union of the Soviet Socialist Republics" is substituted in place of the clause "what is known as the Union of the Soviet Socialist Republics" as used in the draft agreement transmitted with my note of May 12, 1925.

I trust that the agreement as now drafted will meet the objection set forth in your note of June 16 and prove acceptable to all the Contracting Parties.

Accept [etc.]

JOSEPH C. GREW

857H.01/43

The French Ambassador (Daeschner) to the Secretary of State[Translation ²⁶]

WASHINGTON, July 13, 1925.

Referring to the letter of His Excellency, the Secretary of State, dated July 3, 1925, the Ambassador of the French Republic to the United States has the honor to inform him that he referred to the

²⁵ Not printed.²⁶ File translation revised

Government of the Republic the draft for the wording of the clause relative to the adherence of Russia to the Spitzbergen Treaty, in which the American Government suggested that the word "entity" be used instead of "federation."

Mr. Daeschner has the honor to inform the Honorable Frank B. Kellogg that the French Government does not believe it possible to retain the term "entity." As a matter of fact, it has in the French language a purely abstract meaning which would preclude its being used in this circumstance.

The Government of the Republic, therefore, suggests the phrase "political organism", the rather broad meaning of which appears to it to meet the legitimate scruples of the Government of the United States.

Mr. Daeschner is glad to take this opportunity to renew to the Honorable Frank B. Kellogg the assurances of his high consideration.

857H.01/48

The French Ambassador (Daeschner) to the Secretary of State

[Translation *]

WASHINGTON, August 17, 1925.

MR. SECRETARY OF STATE: By a note dated July 13, I had the honor to inform Your Excellency that the French Government could not retain the word "entity" in the draft for the wording of the clause relative to the adherence of Russia to the treaty concerning Spitzbergen, and suggested that the phrase "political organism" be put in its place.

Since then, informal conversations between Mr. Haupt and one of the members of the Embassy have brought out the fact that the Federal Government would prefer the phrase "political organization."

My Government, to which I reported that wish, sees no objection to that suggestion. Under those conditions I should be thankful to Your Excellency if you would kindly let me know whether the United States Government accepts the draft with that change therein that was enclosed in my note of April 7 last.

Be pleased [etc.]

E. DAESCHNER

* File translation revised.

857h.01/64

The French Chargé (Sartiges) to the Secretary of State[Translation ²⁹]

WASHINGTON, January 7, 1926.

MR. SECRETARY OF STATE: In a letter dated October 20, last,²⁹ Your Excellency was pleased to inform the Embassy that all due attention had been given by the Department of State to the communications from the French Embassy concerning the adherence of the American [Russian] Government to the Spitzbergen Treaty and that an early answer might be expected from the Department of State on that point.

My Government has just reminded me once more of the urgency of the case and I have the honor to bring it again to Your Excellency's attention while venturing to remark that it was upon the informal request of the Federal Government that the term "political organization" as designating Russia was accepted by my Government and that the Department of State was so advised by the Embassy's note of August 17 last. No further objection having been offered since then, the French Government is at a loss to understand why it has received no communication from the American Government on the question and I should be very thankful to Your Excellency if you would kindly enable me to send a reply as early as you may find it possible.

Be pleased [etc.]

SARTIGES

857h.01/64

The Secretary of State to the French Ambassador (Bérenger)

WASHINGTON, February 2, 1926.

EXCELLENCY: I have the honor to refer to your predecessor's notes of July 13, August 17, and October 5, 1925³⁰ and to Count de Sartiges' note of January 7, 1926, regarding the proposed adhesion by Russia to the Treaty signed at Paris February 9, 1920, relating to Spitsbergen.

The Department has given most careful consideration to this question, particularly in connection with the provisions of the first paragraph of Article 10 of the Treaty, which reads as follows:

"Until the recognition by the High Contracting Parties of a Russian Government shall permit Russia to adhere to the present Treaty, Russian nationals and companies shall enjoy the same rights as nationals of the High Contracting Parties."

²⁹ File translation revised.³⁰ Not printed.³¹ Note of October 5 not printed.

The above-quoted paragraph clearly accords to Russian nationals and companies the same rights as nationals of the High Contracting Parties, such preferential treatment to be enjoyed by them until the recognition of a Russian Government shall permit Russia to adhere to the Treaty.

As Your Excellency's Government is aware, the Government of the United States has not recognized the regime now functioning in Russia, and in these circumstances the Government of the United States regrets that it cannot see its way, in view of the express terms of the Treaty, to consent to the adherence thereto by the regime now functioning in Russia.

Moreover, since the rights of Russian nationals and companies in Spitsbergen are expressly safeguarded under the provisions of the present Treaty, the Government of the United States fails to find that it is necessary or desirable to consider at this time the modification of the existing Treaty with a view to permitting the adherence thereto by the regime now functioning in Russia.

Accept [etc.]

FRANK B. KELLOGG

ASSENT BY PRESIDENT COOLIDGE TO PROVISIONS IN THE POLISH-SWISS ARBITRATION TREATY FOR INVOKING THE ASSISTANCE OF THE PRESIDENT OF THE UNITED STATES UNDER CERTAIN CONTINGENCIES

754.60 c 12/1

*The Polish Minister (Wróblewski) to the Secretary of State*²¹

WASHINGTON, April 15, 1925.

SIR: The Government of the Republic of Poland and the Government of the Swiss Republic signed in Bern on March 7, 1925, a Treaty of Arbitration,²² Articles 3 and 14 of which provide for invoking the assistance of the President of the United States under circumstances stated therein.

A translation of the text of Articles 3 and 14 of the Treaty follows:

ARTICLE 3

Within six months after the exchange of ratifications of the present Treaty the Contracting Parties shall establish a Permanent Conciliation Commission composed of five members.

Each of the Parties shall appoint one member of its own choice and the three other members shall be selected by agreement. These three members shall not be nationals of the Contracting Parties nor

²¹ An identic note dated April 16 was received from the Swiss Minister.

²² League of Nations, *Treaty Series*, vol. 1, p. 261.

have their domicile on their territory nor be employed in their service.

The Chairman of the Commission shall be selected by agreement from among the members appointed in common. In case of failure of the Parties to agree, the Chairman shall be designated, at the request of the Parties, by the President of the United States of America if he so consents.

The members of the Commission shall be appointed for three years. Unless the Parties agree to the contrary the members designated in common shall not be removed during the period for which they were appointed.

ARTICLE 14

When, by virtue of the terms of Article 1 of the present Treaty, a difference shall be submitted for arbitration the arbitral tribunal shall be established by agreement between the Parties.

If the Parties should be unable to agree on the constitution of the tribunal within a period of three months from the day when one of the Parties shall have addressed to the other a request for arbitration, the following procedure shall be followed:

Each Party shall name two arbitrators of which one must be taken from the list of members of the Permanent Court of Arbitration and chosen to the exclusion of its own nationals. The arbitrators so designated shall together choose the Chairman of the tribunal. In case of an equal division of votes the selection of the Chairman shall be entrusted to the President of the United States, if he so consents.

Acting on instructions from my Government, I beg to inquire if it is agreeable in principle to the President of the United States that the Parties should so provide for invoking the assistance of the President in the circumstances described in Articles 3 and 14.

It is understood that an identic note is being presented by the Swiss Minister on behalf of his Government.

Accept [etc.]

W. WRÓBLEWSKI

754.60 c 12/1

*The Acting Secretary of State to the Polish Minister (Wróblewski)*²³

WASHINGTON, April 18, 1925.

SIR: I have the honor to acknowledge the receipt of your communication of April 15, 1925, in which you inform me that the Government of the Republic of Poland and the Government of the Swiss Republic signed in Bern on March 7, 1925, a Treaty of Arbitration, Articles 3 and 14 of which provide for invoking the assistance of the President of the United States under circumstances stated therein. Your note embraces a translation of the text of Articles 3 and 14 of that treaty.

²³ The same, *mutatis mutandis*, to the Swiss Minister.

You inform me that, acting under instructions from your Government, you inquire if it is agreeable in principle to the President of the United States that the parties should so provide for invoking the assistance of the President in the circumstances described in Articles 3 and 14.

It appears therefrom that, under a certain contingency, the Chairman of the Permanent Conciliation Commission shall be designated, at the request of the parties, by the President of the United States of America if he so consents; and also that, under a certain contingency, the selection of the Chairman of the Tribunal of Arbitration which may be established pursuant to the Convention shall be entrusted to the President of the United States, if he so consents.

I have to inform you that the President desires me to thank the Government of Poland, through your good offices, for the courtesy and compliment implied in your inquiry, and to assure you that it is entirely agreeable in principle to him that the parties to the treaty should so provide for invoking the assistance of the President in the circumstances described in Articles 3 and 14.

An identic note is being transmitted to the Swiss Minister at this capital for the information of his Government.

Accept [etc.]

J. V. A. MacMURRAY

UNSUCCESSFUL EFFORTS TO HAVE AMERICAN CUSTOMS ATTACHÉS ACCORDED DIPLOMATIC STATUS

102.1702/137

The British Ambassador (Howard) to the Secretary of State

No. 329

WASHINGTON, *March 31, 1925.*

[Received April 2.]

MY DEAR MR. SECRETARY: With reference to our conversation of the 28th instant respecting the appointment of Treasury or Customs Attachés to United States Embassies abroad,⁸⁴ I have the honour to enclose herewith, as you requested, a memorandum on the subject which explains the views of His Majesty's Government and the objections they entertain to such officers having diplomatic status and privileges.

Believe me [etc.]

ESME HOWARD

⁸⁴ See circular instruction of April 2 to certain diplomatic and consular officers, p. 212.

[Enclosure]

The British Embassy to the Department of State

AIDE-MÉMOIRE

On January 13th, 1925 an Act of the 68th Congress, identified under the number H. R. 9076, providing for the organization of the United States Customs Service was approved.³⁵ Amongst other things, the Act authorizes the Secretary of the Treasury to appoint such number of "Customs Attachés" for duty in foreign countries and of Customs agents as he may deem necessary, all of whom shall perform their duties as defined by existing law or prescribed by the Secretary of the Treasury, under the immediate supervision of the director, special agency service of the Customs: "Provided, that any officer of the Customs Service designated by the Secretary of the Treasury for foreign service shall, through the Department of State, be regularly and officially attached to the diplomatic mission of the United States in the countries in which they are to be stationed."

His Britannic Majesty's Principal Secretary of State for Foreign Affairs has taken note of the provisions of this law. He understands that, so far as the Act relates to United States Customs agents stationed abroad, its purpose is to regulate their selection and to bring their activities and methods under closer and more responsible control. Mr. Chamberlain assumes, however, that it is not intended by the United States Government to give to these officers a diplomatic status or to ask foreign Governments to afford recognition to them as diplomatic officers. From recent conversations and correspondence in London and in Washington, Mr. Kellogg will be aware that His Majesty's Government felt obliged, as long ago as June, 1923, to raise objections to the activities of these officers in British territory in so far as those activities involved enquiries into costs of production. Mr. Chamberlain feels confident that the Secretary of State will agree with him that the activities of Customs or other revenue investigators cannot be regarded as falling within the scope of diplomatic duties.

142.15/2326

The Secretary of State to Certain Diplomatic and Consular Officers ³⁶

WASHINGTON, April 2, 1925.

SIRS: There have arisen from time to time in certain foreign countries misunderstandings concerning the purpose and the nature of

³⁵ 43 Stat. 748.³⁶ I. e., those in countries in Europe with which the United States maintained diplomatic relations, and in China and Japan.

the activities abroad of Customs Attachés (formerly called Customs representatives) of the United States Treasury and of representatives and investigators of the United States Tariff Commission. The following data are presented for your more complete information and for your guidance in this matter and in order that you may communicate this information to the government to which you are accredited in case the activities of these agents are questioned by it and the Department specifically instructs you to take up the matter.

CUSTOMS ATTACHÉS

You will observe by reference to Section 402 (a) of the Tariff Act of 1922⁸⁷ that the value of merchandise imported into the United States is defined as:

- (1) The foreign value or the export value, whichever is higher;
- (2) If neither the foreign value nor the export value can be ascertained to the satisfaction of the appraising officers, then the United States value;
- (3) If neither the foreign value, the export value, nor the United States value can be ascertained to the satisfaction of the appraising officers, then the cost of production.

In the ordinary course, the declaration of value made by the importer for purposes of entering goods at the customs, together with the consular invoice of the shipment and comparative values of such or similar merchandise, affords sufficient information to enable the appraiser to make a satisfactory valuation of the goods. However, it sometimes occurs that the appraiser has reason to believe that the valuation at which the goods are entered is less than the current foreign value or export value of the goods as defined in the Tariff Act. In this connection it is important to observe that the dutiable value of a particular consignment of goods is not necessarily the price at which they were bought abroad for importation into the United States, but is the current foreign value or export value of such or similar goods at the time of exportation.

In cases where the customs appraiser is not satisfied as to the valuation entered and has not available data upon which he can base a valuation, he will find it necessary to cause an investigation to be made abroad to ascertain these data. For the purpose of this instruction, these will be divided into ordinary "market value" and "cost-of-production" investigations, numbered 1 and 2 herein. To make such investigations, the United States Treasury Department has assigned a number of customs attachés to foreign posts. These customs attachés in the foreign field are the authorized representatives of the Secretary of the Treasury and function as instrumen-

⁸⁷ 42 Stat. 858.

talities of the appraising operation, and make particular investigations upon the request of the customs authorities of the United States Treasury and in connection with the admission of goods which have been entered at the United States customs. These officials also make original investigations of "market" value when they have any reason to believe, from information lodged with them or from their own observations, that undervaluation exists in any particular instance or industry. If such an inquiry should extend to cost of production, it will be governed by the special instructions from the Treasury Department referred to herein.

An extract from a memorandum submitted by the Treasury Department on this subject follows: "In making these investigations, the customs attachés of the United States Treasury Department abroad are always disposed to give to manufacturers and shippers the fullest information as to correct invoicing of their merchandise or anything else about which they may make inquiry or request assistance."

1. The customs attachés abroad, when it is necessary to investigate the foreign value or export value of certain goods, customarily call upon the firm which has made the shipment and request data as to sales price for home consumption and/or exportation to the United States. In the course of this investigation it is usually necessary to request the shipper to exhibit his records of other sales of the same or similar goods on approximately the date when the consignment in question was exported. Such records tend to establish the actual foreign value or export value at the time of exportation, which is the valuation prescribed by the Tariff Act of 1922 as the valuation to be considered in the application of the tariff. (Sec. 402-b and c).

A foreign shipper presumably would not refuse to make available to the customs attaché the above-mentioned information unless he misunderstood the terms of the Tariff Act of 1922. It may be emphasized here that in the "market value" investigation the Customs Attaché does not usually request data as to the cost of production; he merely requests the exhibition of documentary evidence that the valuation declared in a particular consular invoice upon a shipment of goods to the United States is not lower than upon sales in the exporting country for home consumption or for export to the United States. In case the valuation declared by the shipper with respect to the shipment to the United States has been made in good faith, there would seem to be no valid reason for the shipper's refusing to demonstrate the existence of such good faith by exhibiting a record of sales in his home market.

If, however, the shipper refuses to make such documentary proof available to the Customs Attaché there are only two courses open

to the appraiser at the port of entry. He may resort to the United States value, which in almost every case, will be higher than the export or the foreign value, and, in some cases, will be difficult of ascertainment. In case there were an appeal from the appraiser's valuation, the case would come before the Board of General Appraisers for review. This Board sits as a court and its records and proceedings are public. This court would normally require affirmative proof of the foreign value or export value, which would necessitate the production of the exporter's books and records or of extracts therefrom in court. In such a case the data to which the shipper had denied the Customs Attaché confidential access would be made available to the public and would lose their confidential character.

The other alternative, in case of a refusal or failure of a shipper to allow an examination of his books to determine the foreign value or export value, is for the Secretary of the Treasury to prohibit the importation into the United States of merchandise manufactured, produced, sold, shipped or consigned by the foreign shipper.

Section 510 of the Tariff Act of 1922 is as follows:

INSPECTION OF EXPORTER'S BOOKS.—

"If any person manufacturing, producing, selling, shipping, or consigning merchandise exported to the United States fails, at the request of the Secretary of the Treasury, or an appraiser, or person acting as appraiser, or a collector, or a general appraiser, or the Board of General Appraisers, as the case may be, to permit a duly accredited officer of the United States to inspect his books, papers, records, accounts, documents, or correspondence, pertaining to the market value or classification of such merchandise, then while such failure continues the Secretary of the Treasury, under regulations prescribed by him, (1) shall prohibit the importation into the United States of merchandise manufactured, produced, sold, shipped or consigned by such person, and (2) may instruct the collectors to withhold delivery of merchandise manufactured, produced, sold, shipped or consigned by such person. If such failure continues for a period of one year from the date of such instructions the collector shall cause the merchandise, unless previously exported, to be sold at public auction as in the case of forfeited merchandise."

Under an opinion of the Attorney General of the United States the Treasury Department considers that the provisions of this section of the Tariff Act of 1922 are mandatory upon the Secretary of the Treasury and the prohibition of further importation has been to put it into effect after the Customs Attaché has reported a refusal on the part of the foreign shipper to make the necessary data available.

In addition to the above specific provision of law, there is a general principle that, if, for any reason, a legal basis for the appraisement of imported merchandise can not be ascertained to the

satisfaction of the appraising officers, such merchandise shall not be appraised and delivered until a legal basis of appraisement can be ascertained.

2. There sometimes arise, however, cases in which it is impossible for either the foreign value, the export value, or the United States value of goods to be ascertained, notwithstanding the apparent good faith of the shipper in attempting to furnish data to substantiate the value as declared for United States customs entry. Such cases usually involve goods which are shipped in a partly manufactured state to the United States for further manufacture and incorporation into a finished machine or product in this country, and which are not sold for home consumption in the country of exportation.

In these cases it is necessary, under Section 402 (a) (3) of the Tariff Act of 1922 for the United States customs authorities to endeavor to obtain information regarding the cost of production of the goods in question in order that a valuation for customs purposes may be arrived at. The Customs Attaché stationed abroad is in such an event instructed to make an investigation in this sense. Section 402 (e) defines the cost of production as follows:

(1) The cost of materials of, and of fabrication, manipulation, or other process employed in manufacturing or producing such or similar merchandise, at a time preceding the date of exportation of the particular merchandise under consideration which would ordinarily permit the manufacture or production of the particular merchandise under consideration in the usual course of business;

(2) The usual general expenses (not less than 10 per centum of such cost) in the case of such or similar merchandise;

(3) The cost of all containers and coverings of whatever nature, and all other costs, charges, and expenses incident to placing the particular merchandise under consideration in condition, packed ready for shipment to the United States; and

(4) An addition for profit (not less than 8 per centum of the sum of the amounts found under paragraphs (1) and (2) of this subdivision) equal to the profit which ordinarily is added, in the case of merchandise of the same general character as the particular merchandise under consideration, by manufacturers or producers in the country of manufacture or production who are engaged in the production or manufacture of merchandise of the same class or kind.

A number of foreign governments have formally and informally intimated that the investigations carried on by Customs Attachés into the cost of production of foreign merchandise constitute an invasion of the sovereignty of the country in which they are attempted, unless prior permission has been accorded for such an investigation by the government concerned. The Department is not prepared to insist as a matter of right that the United States Customs Attachés be accorded facilities for such investigations into the cost of production. However, it is believed that foreign governments will

appreciate the practical advisability of furthering the proper activities of Customs Attachés in this connection in view of the clear provisions of Section 510 of the Tariff Act of 1922 which, as has been noted before, are considered to be mandatory upon the Secretary of the Treasury. In other words, if it is impossible for the appraising officers of the United States Customs Service to arrive at one of the four kinds of valuation enumerated in Section 402 (a), it becomes necessary for the Secretary of the Treasury to exclude the goods in question. However, in order that no misunderstanding may arise on the part of any foreign government to the effect that an American Customs Attaché is attempting to carry out provisions of American law on the territory of a foreign state without the permission of the government thereof, it has been arranged that in future no Customs Attaché will undertake to approach a foreign shipper or manufacturer in regard to the cost of production of his goods without the prior general permission of the appropriate authorities of the government in whose territory such shipper or manufacturer is located. This general permission would appear to be implied from the recognition by a foreign government of the Customs Attachés at the time that the notification of their status and the statement of their duties are made by the diplomatic mission.

In the event that, in reply to the notification by the diplomatic mission of the status and duties of the Customs Attachés, any foreign government signifies its refusal to permit these officials to carry out investigations into the cost of production, the chief of the mission will notify the Customs Attaché to that effect and will inform the Department transmitting copies of the correspondence containing such refusal. Under such circumstances, Customs Attachés are instructed not to attempt cost-of-production investigations in the country in question.

In countries where Customs Attachés have been recognized by the local government, in each specific case where the ascertainment of the cost of production is necessary, the Customs Attaché will inform the Chief of the American Diplomatic Mission thereof and the latter is hereby instructed to notify the government to which he is accredited that the Customs Attaché will approach the firm in question with a view to ascertaining the cost of production.

The Customs Attaché will simultaneously call upon the firm in question and request facilities for making the necessary investigation. In case the firm refuses to permit the Attaché to carry out such an investigation, the latter will inform the Chief of the American Diplomatic Mission, who, in turn, will take up the question with the government, pointing out again the purpose for which the investigation is to be made, and that exclusion from the United States

of the firm's goods under Section 510 may result as a consequence of the refusal.

In the event that representations to the foreign government do not result in overcoming any firm's objections to the investigation by the Customs Attaché, it will not be attempted further and the Customs Attaché will refer the case back to the American Customs authorities with an appropriate notation of the refusal.

It is believed that no fixed procedure can advantageously be outlined by the Department for the guidance of American diplomatic missions in bringing such requests to the notice of foreign governments. It would appear that in each country there might be worked out by the Mission and the appropriate foreign government a procedure that would satisfy the requirements of that government without necessitating the active intervention of the Mission in each individual case. It is left to the discretion of the individual Chiefs of Mission, after consultation with the Customs Attaché, and to the exigencies of situations in particular countries to determine the procedure to be followed. It is the Department's object to ensure that no investigation into the cost of production will be undertaken by Customs Attachés of the Treasury without the prior general permission of the foreign government concerned, and, in certain countries where the activities of Customs Attachés have been or may be questioned by the governments thereof, without prior notification to the foreign government of each specific cost of production investigation.

The general plan outlined above, providing for notification to the foreign government of each cost-of-production investigation that it is planned to undertake, is subject to modification or suppression by the Chief of the Diplomatic Mission, in his discretion, in those countries where the Customs Attachés' activities have not been questioned. In such countries, it may appear to the Chief of Mission not to be desirable to raise any question in the minds of the authorities of the country to which he is accredited. Under these circumstances, no action in regard to this instruction need be taken, aside from the general notification of the status and duties of the Customs Attachés, unless some subsequent question as to their activities is raised by the government.

It is fully realized that there may be objection on the part of certain foreign governments and by certain foreign manufacturers to disclosing one or another element of the cost-of-production investigation. For instance, it has been felt by foreign manufacturers that valuable trade secrets were being requested by Customs Attachés which, if they became known to the competitors of the firm, might well prove disastrous to the latter's prosperity. In regard to this quite natural fear, it may be said that the Customs Attachés

stationed abroad are men of long service and proved reliability in the United States Customs Service. Their reports are strictly confidential and are never accessible to any American or foreign individual or firm, nor are they even available to other departments of the United States Government or to bureaus of the United States Treasury Department other than the Customs Division thereof. Under article 1323 of the Customs Regulations of 1923 the divulgence of information of this character subjects the guilty party to dismissal or criminal prosecution or both. The record of the United States Customs Service for preserving the confidentiality of data given to it in confidence has been excellent and it may be safely assumed that cases of the betrayal of such confidence, should any such case unfortunately occur, will be punished with the utmost severity.

In making investigations into the cost of production abroad, where such investigations have been permitted by the government concerned, the Customs Attachés have been given specific written instructions, a copy of which is transmitted herewith.³⁸ It will be observed that these instructions make it possible for the Customs Attachés' reports to contain the data necessary for valuation purposes without disclosing all the individual items which go to make up such cost. Thus, it is contemplated that only the Customs Attaché himself will have information as to labor cost, finishing cost, etc., which the manufacturer may be hesitant to divulge.

It has been alleged in certain foreign countries that the Customs Attachés, in requesting data from foreign shippers, have threatened the exclusion of their goods from the United States unless such data were furnished. In this connection it may be pointed out that Customs Attachés are under strict instructions to make no such threats. They are authorized, however, to explain the provisions of Section 510 of the United States Tariff Act, in order that the foreign shippers may understand the possible result of their refusal or the inability of the customs appraiser to obtain a legal basis for the appraisement of the merchandise.

It is pertinent to call attention to the fact that the methods of valuation established by the Tariff Act of 1922,—including the provision for the cost of production—were arrived at after the most careful study by the Congress of the United States as alternatives to the "American Valuation" of goods for customs purposes. As has been explained above, the United States Treasury must enforce the existing tariff law, and as a practical matter, it does not appear probable that an amendment of Section 510 of that law will be seriously considered in the near future. Consequently, it should be made clear

³⁸Not printed.

to foreign officials, who question the propriety of investigations abroad by United States Customs Attachés, that a failure on their part to cooperate with these Attachés in their duties under the Tariff Act will in some cases operate to preclude shipments to the United States.

Under the Canadian tariff regulations, Canadian investigators have conducted investigations into the books and records of American manufacturers. This Government has not objected to such investigations, since it has appeared to it only fair that American exporters, desiring to enter a foreign market, should comply with the tariff and other regulations of that market. For this Government to prohibit proper activities of Canadian investigators would be to injure American exporters by depriving them of their trade with Canada in those cases where investigation of books is demanded by the Canadian Customs authorities.

TARIFF COMMISSION REPRESENTATIVES

Your attention is especially directed to the fact that the United States Tariff Commission is entirely separate from the United States Treasury Department. It was created by Act of Congress approved September 8, 1916.³⁹ It is not an administrative department of this Government. Its duties consist of investigation and recommendations to the President and to the Congress of the United States, as a result of such investigations. You are referred to the statement of the Commission's duties which appears on page 393 of the Congressional Directory dated January, 1925.

Investigations in foreign countries are conducted under Sections 315, 316 and 317 of the Tariff Act of 1922. The most frequent investigations abroad are to ascertain costs of production under Section 315. Section 315 provides as follows:

(a) That in order to regulate the foreign commerce of the United States and to put into force and effect the policy of the Congress by this Act intended, whenever the President, upon investigation of the differences in costs of production of articles wholly or in part the growth or product of the United States and of like or similar articles wholly or in part the growth or product of competing foreign countries, shall find it thereby shown that the duties fixed in this Act do not equalize the said differences in cost of production in the United States and the principal competing country he shall, by such investigation, ascertain said differences and determine and proclaim the changes in classifications or increases or decreases in any rate of duty provided in this Act shown by said ascertained differences in such costs of production necessary to equalize the same. Thirty days after the date of such proclamation or proclamations such changes in classification shall take effect, and such increased or de-

³⁹ 39 Stat. 756.

creased duties shall be levied, collected, and paid on such articles when imported from any foreign country into the United States or into any of its possessions (except the Philippine Islands, the Virgin Islands, and the Islands of Guam and Tutuila): *Provided*, That the total increase or decrease of such rates of duty shall not exceed 50 per centum of the rates specified in Title I of this Act, or in any amendatory Act.

(b) That in order to regulate the foreign commerce of the United States and to put into force and effect the policy of the Congress by this Act intended, whenever the President, upon investigation of the differences in costs of production of articles provided for in Title I of this Act, wholly or in part the growth or product of the United States and of like or similar articles wholly or in part the growth or product of competing foreign countries, shall find it thereby shown that the duties prescribed in this Act do not equalize said differences, and shall further find it thereby shown that the said differences in cost of production in the United States and the principal competing country can not be equalized by proceeding under the provisions of subdivision (a) of this section, he shall make such findings public, together with a description of the articles to which they apply, in such detail as may be necessary for the guidance of appraising officers. In such cases and upon the proclamation by the President becoming effective the ad valorem duty or duty based in whole or in part upon the value of the imported article in the country of exportation shall thereafter be based upon the American selling price, as defined in subdivision (f) of section 402 of this Act, of any similar competitive article manufactured or produced in the United States embraced within the class or kind of imported articles upon which the President has made a proclamation under subdivision (b) of this section.

The ad valorem rate or rates of duty based upon such American selling price shall be the rate found, upon said investigation by the President, to be shown by the said differences in costs of production necessary to equalize such differences, but no such rate shall be decreased more than 50 per centum of the rate specified in Title I of this Act upon such articles, nor shall any such rate be increased. Such rate or rates of duty shall become effective fifteen days after the date of the said proclamation of the President, whereupon the duties so estimated and provided shall be levied, collected, and paid on such articles when imported from any foreign country into the United States or into any of its possessions (except the Philippine Islands, the Virgin Islands, and the islands of Guam and Tutuila). If there is any imported article within the class or kind of articles, upon which the President has made public a finding, for which there is no similar competitive article manufactured or produced in the United States, the value of such imported article shall be determined under the provisions of paragraphs (1), (2), and (3) of subdivision (a) of section 402 of this Act.

(c) That in ascertaining the differences in costs of production, under the provisions of subdivisions (a) and (b) of this section, the President, in so far as he finds it practicable, shall take into consideration (1) the differences in conditions in production, including wages, costs of material, and other items in costs of production of such or similar articles in the United States and in competing foreign countries; (2) the differences in the wholesale selling prices

of domestic and foreign articles in the principal markets of the United States; (3) advantages granted to a foreign producer by a foreign government, or by a person, partnership, corporation, or association in a foreign country; and (4) any other advantages or disadvantages in competition.

Investigations to assist the President in ascertaining differences in costs of production under this section shall be made by the United States Tariff Commission, and no proclamation shall be issued under this section until such investigation shall have been made. The commission shall give reasonable public notice of its hearings and shall give reasonable opportunity to parties interested to be present, to produce evidence, and to be heard. The commission is authorized to adopt such reasonable procedure, rules, and regulations as it may deem necessary.

The President, proceeding as hereinbefore provided for in proclaiming rates of duty, shall, when he determines that it is shown that the differences in costs of production have changed or no longer exist which led to such proclamation, accordingly as so shown, modify or terminate the same. Nothing in this section shall be construed to authorize a transfer of an article from the dutiable list to the free list or from the free list to the dutiable list, nor a change in form of duty. Whenever it is provided in any paragraph of Title I of this Act, that the duty or duties shall not exceed a specified ad valorem rate upon the articles provided for in such paragraph, no rate determined under the provision of this section upon such articles shall exceed the maximum ad valorem rate so specified.

(d) For the purposes of this section any coal-tar product provided for in paragraphs 27 or 28 of Title I of this Act shall be considered similar to or competitive with any imported coal-tar product which accomplishes results substantially equal to those accomplished by the domestic product when used in substantially the same manner.

(e) The President is authorized to make all needful rules and regulations for carrying out the provisions of this section.

(f) The Secretary of the Treasury is authorized to make such rules and regulations as he may deem necessary for the entry and declaration of imported articles of the class or kind of articles upon which the President has made a proclamation under the provisions of subdivision (b) of this section and for the form of invoice required at time of entry.

The investigations authorized above are in their nature statistical inquiries directed to the ascertainment of the differences between costs of production in the United States and in foreign countries, the purpose being to enable the President to put into effect changes in classification of articles or in rates of duty under the United States Tariff Act of 1922.

The investigations are not concerned with individual importations, and they do not involve the imposition of any penalties under the Tariff Act for refusal to disclose information. Foreign manufacturers, so far as the Tariff Act is concerned, may or may not disclose their costs of production to Tariff Commission investigators, as they may see fit.

However, in view of the fact that the findings of the Tariff Commission as to foreign costs of production may lead to a recommendation to the President that the United States Customs duty on certain classes of foreign goods be raised or lowered under authority of Section 315, foreign manufacturers may consider it advantageous to cooperate with these investigators.

The confidentiality of information concerning individual costs of production and trade secrets of any foreign producer or merchant is protected by Section 708 of the Act of September 8, 1916, which makes it a crime, punishable by fine or imprisonment, or both, for any member of the Tariff Commission, or for any employee, agent, or clerk thereof, or for any other officer or employee of the United States to divulge, or to make known in any manner whatever not provided for by law, to any person, the trade secrets or processes of any person, firm, copartnership, corporation, or association embraced in any examination or investigation conducted by the commission.

Representatives of the Tariff Commission do not enjoy the status of attachés of American diplomatic missions. American diplomatic and consular officers are directed, however, in compliance with the Executive Order of April 4, 1924, to cooperate in all proper ways with these officials, and, upon request, to introduce them to the appropriate foreign authorities.

GENERAL

Chiefs of Diplomatic Missions and Consuls General who receive this instruction are directed to advise the American consular officers in their territory of the duties and status of the Customs Attachés and of the Tariff Commission representatives. American consular officers will be expected to give full cooperation to these officials in the performance of their duties.

I am [etc.]

FRANK B. KELLOGG

142.15/2366

The Ambassador in France (Herrick) to the Secretary of State

No. 5038

PARIS, April 2, 1925.

[Received April 13.]

SIR: With reference to my confidential despatch No. 4599 of November 21st last,⁴⁰ I have the honor to report that the February meeting of the Board of Governors of the International Chamber of Commerce decided to drop, for the time being, the matter of a

⁴⁰ Not printed.

protest against the examination of foreign manufacturers' books by representatives of the United States Tariff Commission.

I desire to invite the Department's attention, however, to the fact that such examinations continually cause misunderstandings and bad feeling. The French Government itself would not dare to make a law forcing their manufacturers to show their books to French agents and it is obvious that such demands on the part of foreign agents are badly received. I recommend a change in Section 510 of the Tariff Law which deals with this subject.

I am enclosing herewith a copy of a memorandum, prepared by a member of my staff, which presents in detail the arguments against the advisability of the making of such demands.

I have [etc.]

MYRON T. HERRICK

[Enclosure]

*Statement Prepared by Mr. Chester Lloyd Jones, Commercial
Attaché, Embassy in France*

I. FRENCH CRITICISM OF COST OF PRODUCTION INVESTIGATIONS

I summarize below the French criticisms met in conversation with French business interests and in the press, without passing on their solidity:

(1) Our government should confine the effect of its laws to its own territories. It is indefensible to try to give them effect within the borders of a friendly neighbor state. If the propriety of such extraterritorial extension of law is admitted, it is obvious that international trade might be subject to intolerable interference even before it crosses the border of the state where it originates.

(2) The cost of production investigations are an inquisition into the affairs of French manufacturers contrary to all precedent. No French Parliament could stand which passed a law authorising French tax officials to inquire into the books of French citizens to the degree to which American agents are authorized to do so not in their own but in a foreign country.

(3) Is it to be supposed that United States citizens would submit to similar inquisitorial legislation passed by France? Investigations of this sort are authorised in American law in connection with income tax and other legislation, but such inquiries are within the national territory, and have not even there been extended to cost of production. An attempt to enforce a foreign law in France as a condition for the right to sell in the United States is indefensible.

(4) It is useless to try to differentiate between the actions of one set of American officials and another. The representatives of the

Treasury Department demand the opening of books and the disclosures of production costs because they say they want to assure honest valuations for goods imported into the United States. If this were the only use which would be made of the information, the inquiries might be less objectionable. But the representatives of the Tariff Commission are in Europe to get information as to the cost of production in different countries in order that the American tariff can be adjusted in such a way that any advantage reaped by a foreign producer through cheaper labor, cheaper raw materials, or cheaper methods of manufacture may be counterbalanced by the tariff rate adopted in the United States. The information they want they try to secure through threat that if not given, the tariff will go up. The information they seek, if given, will be used to check the import trade which they are investigating.

Is it to be supposed that the information given one set of officers for one purpose will not find its way into the hands of the other set of officers and be used by them for another purpose?

(5) The investigations are, in addition, objectionable because they discriminate between French producers. If all the information asked were given, an efficient plant manufacturing at low cost would find itself at a disadvantage in American trade as compared to a less efficient plant.

II. FRENCH ACTION PROPOSED

The cotton and woolen associations, and perhaps others, have counselled their members to report any attempt to force the giving of information to the associations, which will take the matter up with the French Government. They encourage non-compliance with the demands made. The "Conseillers du Commerce Extérieur" have at a number of meetings discussed the character of the investigations carried on. Protests have reached them from a number of trade syndicates, some of which have proposed that, at least, the application of the American law be made less brusque by agreement to allow the trade syndicates to report on the cost of production, their conclusions being accepted, and the individual merchant being freed from interference. (This does not seem to be a satisfactory way out. CLLJ.)

III. ESTIMATE OF THE EFFECT OF THE LEGISLATION

Obviously, the American officers sent to enforce the laws to which the French take exception have no option. It may also be urged that this is a "good law", in that it protects the income of the United States.

The legislation certainly does not promote friendly international relations. The opposition aroused seems to be addressed primarily against the activities of the agents of the Tariff Commission and incidentally against the representatives of the Treasury. Perhaps the activities of the latter might have been accepted if there had been no feeling aroused that the information given was to be used to the disadvantage of French exports in the fixing of future tariff rates—but even that is doubtful. French exporters and French Government officials question the propriety of the action taken by certain of the representatives of the Tariff Commission, and have protested against them. The criticism which some of these representatives have aroused comes not only from individual firms, but from the trade syndicates.

It is a fair question whether legislation by France attempting to do the same thing in America which our officials have attempted to do in France would be accepted without vigorous protest by the American business public.

Take an example: There is now a fairly large export of aluminium ingots from the United States to France. There is also an important French aluminium industry. Suppose a French official attempted to get from the American Aluminum Company their costs of production, assuming that he acted under French law. What would his reception be? This is an extreme example, since the American Aluminum Company has refused to give any information on this subject even to the United States Government. But the reaction toward the inquiry would be the same even in branches of industry where control is not so completely in the hands of a small group.

The practical effect of the activities under the existing American legislation is to dry up sources of commercial information formerly open to the representatives of the United States Government in this country. Trade syndicates whose members have been affected by the investigations now refuse cooperation, alleging that the reason for doing so is that they feel that any information given may be used to their disadvantage. Cotton, wool and silk manufacturers and the electrical equipment interests are examples of groups which have been less communicative through the bad feeling aroused.

But aside from details, it can generally be assumed in human relations that a certain standard of action is "good" if one would welcome the application of that standard to himself. I doubt whether French legislation of this sort would receive a cordial reception in the United States.

121.5763/-

*The Secretary of State to the Minister in Austria (Washburn)*⁴¹

No. 731

WASHINGTON, April 21, 1925.

SIR: By an Act of Congress approved January 13, 1925,⁴² it was provided that agents of the Customs Division of the United States Treasury stationed abroad and hitherto entitled Customs Representatives should be regularly and officially attached to American Diplomatic Missions. The title of Customs Attaché has been provided for them and the Secretary of the Treasury has now transmitted to the Department a list of Customs Attachés and Assistant Customs Attachés whom it is desired to have attached to the appropriate American Diplomatic Missions.

There is transmitted herewith a copy of the Act of January 13, 1925. The following officials have been assigned to duty in the territory which includes Austria. You are hereby notified that there have been attached to your Legation, as well as to certain other Missions:⁴³

James F. O'Neill, Customs Attaché.

George R. Coxe, Assistant Customs Attaché.

John P. Griebel, Assistant Customs Attaché.

Lucien Picard, Customs Clerk.

You are directed to inform the Austrian Government of the appointment of these Customs Attachés and Assistant Customs Attachés and that their customary headquarters will be at 14 Kappeler-

⁴¹ The same instruction, *mutatis mutandis*, was sent on April 21 to the Embassies in Belgium (No. 128), Germany (No. 3821), Italy (No. 272), and Spain (No. 221); to the Legations in Bulgaria (No. 125), Denmark (No. 271), Greece (No. 189), Hungary (No. 940), Netherlands (No. 226), Norway (No. 198), Poland (No. 110), Portugal (No. 639), Rumania (No. 371), and the Kingdom of the Serbs, Croats and Slovenes (No. 563); and on May 5 to the Legations in China (No. 893) and Finland (No. 133). Similar instructions were sent on April 18 to the Legation in Switzerland (No. 206; see p. 233, footnote 49), and on April 21 to the Embassy in France (No. 1475, *post*, p. 230) and to the Legation in Sweden (No. 123, *post*, p. 233). On May 5 the Embassy in Japan was informed that if a customs attaché were appointed for duty in Japan the Embassy would be instructed later to make appropriate notification to the Japanese Government (file No. 121.5794/-).

⁴² 43 Stat. 748.

⁴³ Bulgaria, Greece, Hungary, Italy, Rumania, Kingdom of the Serbs, Croats and Slovenes, and Switzerland.

The instructions to the Missions in Belgium, France, Portugal, and Spain stated that Messrs. S. E. Armstrong, customs attaché, and Edgar M. Barber, Henry M. Clapp, and Paul H. Watson, assistant customs attachés, would be attached to them with headquarters at 55 Rue de Rivoli, Paris; the Legation in China was informed that Messrs. Martin B. Nicholson, customs attaché, and Martin G. Scott, assistant customs attaché, would be attached to it with headquarters at Shanghai; the instructions to the Missions in Denmark, Finland, Germany, Netherlands, Norway, Poland, and Sweden informed them that Messrs. F. X. A. Eble, customs attaché, and Charles H. Aschenbach, John Cameron, Paul Hermes, Max Richert, Charles S. Turrill, and Max Teuscher, assistant customs attachés, were attached to them with headquarters at 17, von der Heydt Strasse, Berlin; Messrs. George R. Coxe and John P. Griebel, assistant customs attachés, and Lucien Picard, customs clerk, were also attached to the Embassy in Germany for duty in Bavaria, Baden, and Württemberg.

gasse, Zurich 1, Switzerland. You will further inform the Austrian Government that these officials have been attached to your Legation and you will request their recognition in their respective capacities by the appropriate authorities.

In making this notification, you are directed to state that the duties of these Attachés will be in general the following:

Under Section 402 of the United States Tariff Act of 1922 they ascertain the facts relative to the "market value" of merchandise exported to the United States from the countries to which they are assigned; the conditions of sale and shipment thereof; the correctness of invoices executed by shippers; and any other facts deemed necessary to a proper appraisement, examination and classification of the merchandise. This information is embodied in reports submitted to the Secretary of the Treasury for reference to appraising and other customs officers at ports of importation in the United States. They advise foreign exporters and shippers as to the United States Tariff Law and invoice requirements. By direction of the Secretary of the Treasury, upon request from appraising officers, or upon their own motion when they have reason to believe that fraud or undervaluation exists, they make special investigations in the above subjects as well as other violations of the Customs Revenue Laws and improper invoicing of merchandise, and, when necessary, inquire into the cost of production of merchandise. The facts ascertained and reported by them are also used in connection with the enforcement of the statutes of the United States intended to prevent dumping of foreign merchandise into the United States at less than a fair value.

In case you deem it advisable you may furnish to the appropriate authorities the more comprehensive and detailed description of the activities of Customs Attachés that is contained in the Department's Circular Instruction of April 2, 1925, with reference to this subject. In any event, you will point out that no inquiry into cost of production will be undertaken by Customs Attachés without the prior general or specific permission of the interested government.

In view of the considerable number of these Attachés assigned to a district comprising several countries and the consequent necessity of attaching the whole number of such Attachés to the Diplomatic Mission in each country in this district, it is not believed to be necessary that these officials be carried on the diplomatic lists of each country in which they may occasionally perform duties. Although these officials will be provided with American Diplomatic Passports and will hold the status of Attachés of the American Diplomatic Mission, their duties, as noted above, do not normally bring them into contact with foreign governments, but rather with foreign individuals

and business firms. Consequently, it would appear to be sufficient if the principal Customs Attachés only were placed on the diplomatic lists of foreign governments, provided that such governments recognize for practical purposes the official status of the Assistant Customs Attachés who are on the staff of the principal Customs Attaché. If, however, any foreign government should prefer to place both the Customs Attaché and the Assistant Customs Attachés on its diplomatic list, there would appear to be no objection thereto. In the event that, due to the exigencies of the Customs Service, a Customs Attaché who has not been regularly assigned to Austria should be assigned there for temporary duty, he will not begin to perform such duty pending notification to you and by you to the Austrian Government of his presence and official status. Instructions in this sense will be issued by the Secretary of the Treasury.

For your information, it is pointed out that the legislation directing that these Customs officials be attached to American Diplomatic Missions came about through the difficulties which they have hitherto experienced on account of a lack of understanding on the part of foreign governments of their status and duties under the American laws under which they are operating. There is quoted in this connection a portion of a letter from the Treasury Department:

"The purpose of this proposed amendment is to give the Customs representatives abroad a privileged official status which will enable them to obtain information now denied to them, facilitate their traveling throughout the countries to which they are assigned, and also to escape the burdens of foreign taxation that are now so great as to threaten the continuance of this work in foreign countries. . . . It is not intended to seek diplomatic or social preferment for these representatives."

Your best efforts are desired in explaining to the appropriate Austrian authorities the duties of the Customs Attachés. To this end, you are authorized to make full use of the information contained in the Department's Circular Instruction of April 2, 1925. You will take all appropriate means to remove misunderstandings that may arise and to cooperate in all proper ways to make the work of the Customs Attachés both useful to this Government, and unobjectionable to the Austrian Government. It is suggested that you keep in close and constant touch with the Customs Attachés and with their activities, and that you take all appropriate means to insure that their duties are performed in a manner consistent with their status as attachés of your Legation.

I am [etc.]

FRANK B. KELLOGG

"Omission indicated in the original instruction.

121.5751/-

The Secretary of State to the Ambassador in France (Herrick)

No. 1475

WASHINGTON, April 21, 1925.

SIR:

[Here follow, *mutatis mutandis*, the first five paragraphs of the instruction to Austria, printed *supra*. To the fifth paragraph of that instruction is added the following:] At the time that you make the above notification to the French Government, you are instructed to furnish to the Foreign Office a Memorandum containing the more comprehensive and detailed description of the activities of Customs Attachés that is contained in the Department's Circular Instruction of April 2, 1925, with reference to this subject.

At this time you will explain to the French Government that the procedure which is outlined in the Department's Circular Instruction of April 2 is the result of a painstaking effort on the part of the Treasury and of this Department to meet the views of the French Government, expressed in the note, dated May 26, 1924, addressed to the Department by the French Chargé d'Affaires at Washington,⁴⁵ a translation of which is transmitted herewith, and at the same time to carry out the mandatory provisions of the Tariff Act of 1922. You may express the hope that the full explanation of the American law and of the duties which the Customs Attachés are directed to perform under it, as well as the procedure established for these Attachés, in the Department's Circular Instruction of April 2, 1925, will remove any misunderstanding on the part of the French Government.

[The next three paragraphs, which have been omitted, are the same, *mutatis mutandis*, as the last three paragraphs of the instruction to Austria.]

Special reference is made to your despatch No. 5038, of April 2, 1925, transmitting a memorandum by a member of your staff outlining the French objections to the activities of Customs and Tariff Commission representatives, and recommending that Section 510 of the Tariff Act of 1922 be amended. With regard to your recommendation, it may be observed that the Congress will in all probability not be in session again until December. The Department understands, informally, from the Treasury that there is little practical probability of amendments to the Tariff Act being acted upon favorably by Congress in the near future.

The following brief comment is made upon the Memorandum transmitted with your despatch No. 5038.

(1) Is sufficiently covered in the Department's Circular Instruction of April 2, which points out that Customs Attachés make in-

⁴⁵ The note was signed by the French Ambassador.

vestigations only in connection with goods which have actually been entered at the American customs. Their activities are in no sense designed to elicit economic or other information which is not directly connected with the verification of valuations of dutiable goods which have been declared to the American Government.

(2) The infrequency and the purpose of the cost of production investigations made by Customs Attachés are fully explained in the Circular Instruction of April 2.

With reference to the question of principle raised in point three, your attention is drawn to the fact that this Government has not objected to investigations by Canadian Customs officers in the United States.

With regard to point four, the distinction between Customs Attachés and Tariff Commission representatives is clearly drawn in the Department's circular instruction of April 2, and should be emphasized to the French Government.

With regard to Section II of the Memorandum, relating to the action proposed by France, it may be observed that the Treasury has ruled that affidavits and certificates by trade associations, etc., as to market value or cost of production do not satisfy the requirements of American law, and that, therefore, the Secretary of the Treasury has no legal authority to accept such substitutes for examination of records by accredited representatives of this Government.

In view of the interest that has been taken in this matter by the International Chamber of Commerce, it is suggested that you make available to Mr. Basil Miles⁴⁶ the substance of the Department's Circular Instruction of April 2, and the pertinent parts of this instruction in order that the American representatives at future meetings of the International Chamber of Commerce may be fully advised as to the provisions of the Tariff Act of 1922 affecting Customs Attachés and Tariff Commission representatives, and of the policy of this Government of putting these provisions into effect. You are authorized to cooperate with Mr. Miles in all proper ways to impress the International Chamber of Commerce with the sincere efforts which have been made by this Government to remove, as far as possible, the causes of the misunderstandings which have arisen abroad on account of this law.

I am [etc.]

FRANK B. KELLOGG

⁴⁶ American administrator at the Paris headquarters of the International Chamber of Commerce.

[Enclosure—Translation]

*The French Ambassador (Jusserand) to the Secretary of State*⁴⁷

WASHINGTON, May 26, 1924.

MR. SECRETARY OF STATE: I had the honor to draw Your Excellency's attention in my note of February 11, 1922,⁴⁸ to the objectionable features of the activities of a representative of the Treasury Department, Mr. F. W. McReynolds, who conducted in France financial inquiries and would inspect the books of business firms.

In a communication dated March 23⁴⁹ of the same year, Your Excellency was pleased to let me know that Mr. McReynolds had been asked to stop his work and that this procedure would be discontinued.

In spite of this further inquiries have been made in France by representatives of the United States Tariff Commission, Messrs. Ernster, Hermes and Simpson in particular, and my Government found itself constrained to bring to the notice of the American Embassy at Paris in a note dated September 19, 1923,⁴⁸ the objectionable features of inquiries conducted apart from the official channels by officials whose mission was not even made known to the French Government.

The representatives of the Treasury Department are nevertheless carrying on their inquiries and even would, as they did before, claim the right to examine the accounts of our commercial firms.

In compliance with instructions just received from my Government and referring to the previous correspondence on the same subject, I have the honor to draw Your Excellency's attention to the difficulties which such proceedings are likely to arouse. Not to enforce our laws on our own territory is impossible. Now, with a view to protecting the merchants and avoiding any possible disclosure which in some cases might bring ruin upon him, the law of France only permits of books being examined in judicial and revenue cases. And so the French Government cannot possibly grant to foreign officials powers that it cannot itself claim.

Be pleased [etc.]

JUSSERAND

⁴⁷ Filed separately under file No. 811.5123/2009.

⁴⁸ Not printed.

121.5758/-

The Secretary of State to the Minister in Sweden (Bliss) ⁴⁹

No. 123

WASHINGTON, April 21, 1925.

SIR:

[Here follow, *mutatis mutandis*, the first five paragraphs of the instruction to Austria, printed on page 227.]

At the time that you make the above notification to the Swedish Government, you are instructed to furnish to the Foreign Office a Memorandum containing the more comprehensive and detailed description of the activities of the Customs Attachés that is contained in the Department's Circular Instruction of April 2, 1925, with reference to this subject.

At this time you will explain to the Swedish Government that the procedure which is outlined in the Department's Circular Instruction of April 2, is the result of a painstaking effort on the part of the Treasury and of this Department to meet the wishes of the Swedish Government as expressed in recent representations made to you by the Foreign Office and to the Department by the Swedish Legation,⁵⁰ and at the same time to carry out the mandatory provisions of the Tariff Act of 1922. You may express the hope that the full explanation of the American law and of the duties which the Customs Attachés are directed to perform under it, which is contained in the Department's Circular Instruction of April 2, 1925, will remove any misunderstandings on the part of the Swedish Government.

[The remainder of the instruction is the same, *mutatis mutandis*, as the last three paragraphs of the instruction to Austria.]

I am [etc.]

FRANK B. KELLOGG

102.1702/137

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, May 4, 1925.

MY DEAR MR. AMBASSADOR: I beg to refer to your note No. 329, of March 31, 1925, enclosing a Memorandum setting forth the views of the British Government in regard to the Act of Congress, approved January 13, 1925, providing that Customs Attachés shall be regularly and officially attached to American Diplomatic Missions.

With reference to the objections taken by the British Government to the activities of representatives of the United States Treasury in

⁴⁹ The same instruction, *mutatis mutandis*, was sent on April 18 to the Legation in Switzerland as No. 206.

⁵⁰ Protests against certain activities of Treasury representatives; see under Sweden, vol. II, p. 725, and under Switzerland, vol. II, p. 731.

conducting investigations into foreign costs of production, mentioned in your Memorandum, I may say that the American Ambassador at London has been sent very full instructions outlining a method of procedure in these cases in the future, and explaining in detail the purposes for which these representatives of the United States Customs Service are stationed abroad. I am hopeful that, upon the receipt of the information which the Ambassador has been requested to convey to him on this subject, Mr. Austen Chamberlain will consider that the apprehensions felt by the British Government and by British business interests will have been removed.

With regard to the Act of January 13, 1925, I may say that pursuant to its provisions, diplomatic passports are being issued to Customs Attachés and to Assistant Customs Attachés. These officials have been regularly attached to the staff of the American Diplomatic Missions. The American Ambassador at London has been instructed to advise Mr. Austen Chamberlain in this sense, and to request, through him, recognition of these officials in their respective capacities by the appropriate British authorities.⁵¹ It is hoped that, in the light of more complete information, the British Government may deem it possible to modify its tentative position as to these officials outlined in your Memorandum.

I am [etc.]

FRANK B. KELLOGG

121.5752/1

The Ambassador in Spain (Moore) to the Secretary of State

No. 595

MADRID, June 6, 1925.

[Received June 22.]

SIR: I have the honor to report that, in compliance with the Department's Instruction No. 221, of April 21, 1925,⁵² I addressed to the Madrid Foreign Office a Note, No. 316, dated May 8, 1925, from the enclosed copy of which⁵³ it will be seen that I informed the Acting Foreign Minister of the appointment of a Customs Attaché and three Assistants to this Embassy, and requested recognition of them in their respective capacities by the Spanish Government.

A copy and translation of the Note of reply of the Foreign Office are transmitted herewith.⁵⁴ In it I am advised that the Spanish Government, while not according to the officials in reference the status of attachés to this Embassy, is willing to grant to them, upon request, such customs facilities as are usually extended to members

⁵¹ On May 16 the Ambassador was informed that Russell L. Rice had been appointed assistant customs attaché, with headquarters in London, for duty in the British Isles (file No. 121.5741/1).

⁵² See footnote 41, p. 227.

⁵³ Not printed.

of diplomatic missions, if in the discharge of their duties they are required to visit Spain.

I have [etc.]

ALEXANDER P. MOORE

121.5771/2

The Chargé in Rumania (Riggs) to the Secretary of State

No. 799

BUCHAREST, June 16, 1925.

[Received July 7.]

SIR: Adverting to the Department's Instruction No. 371 of April 21st last ⁵⁴ and to this Legation's reply No. 779 of May 22nd last ⁵⁵ regarding the establishment of Customs Attachés to this and other American Diplomatic Missions, I now have the honor to enclose in copy and translation a Note received today from the Rumanian Foreign Office ⁵⁵ in which it is stated that the Ministry of Finance has taken due note of the assignment of Customs Attachés to the Diplomatic Missions of the United States and that "the Rumanian Government has no objections to advance in connection with this novel institution".

Notification in the above sense has been transmitted to the Customs Attaché in Zürich.

I have [etc.]

B. REATH RIGGS

121.5755/4

The Ambassador in Belgium (Phillips) to the Secretary of State

[Extract]

No. 240

BRUSSELS, June 17, 1925.

[Received June 29.]

SIR: I have the honor to acknowledge Instruction No. 128 of April 21, 1925,⁵⁴ directing me to inform the Foreign Office that certain Customs Attachés had been attached to American Diplomatic Missions. Pursuant to this Instruction, by note dated May 12, I informed the Minister of Foreign Affairs of the appointment of Mr. S. E. Armstrong as Customs Attaché, and of Mr. Edgar M. Barber, Mr. Henry M. Clapp and Mr. Paul H. Watson as Assistant Customs Attachés in Brussels. I requested the Belgian Government to grant recognition to these officials in their respective capacities, and in my note to the Foreign Office I set forth the duties of these attachés in general as indicated in the Department's Instruction No. 128.

⁵⁴ See footnote 41, p. 227.

⁵⁵ Not printed.

I have now received a reply to my representation, dated June 15, 1925, a copy and translation of which I am transmitting herewith.⁵⁷ The Minister of Foreign Affairs informs me in his reply that, although the Belgian Government is animated by a most sincere desire to facilitate as much as possible the application of the provisions of the American law, and that a better knowledge of the provisions of the American customs regulations could only exercise a favorable influence on the development of the economic relations between the two countries, it does not find that the activity of the Customs Attachés comes within the limits defined by international practice as to the role of the personnel of Embassies and Legations. The Minister indicates that these customs officials might more appropriately be attached to the Consulate, as the work they carry on would seem to come under the sphere of the Consulate. The Minister further points out in his note that the Belgian Government itself has not the power by law to direct investigations of cost of production in enterprise, and therefore is unable to grant permission, either general or specific, with regard to such investigations by American officials.

I have [etc.]

WILLIAM PHILLIPS

121.5765/2

The Chargé in Italy (Summerlin) to the Secretary of State

No. 485

ROME, June 23, 1925.

[Received July 8.]

SIR: With reference to the Department's Instruction No. 272 of April 21, 1925,⁵⁸ in regard to the designation of Customs Attachés and Assistant Customs Attachés to appropriate American Diplomatic Missions abroad, and to the Embassy's despatch No. 435 of May 18th last,⁵⁷ I have the honor to enclose herewith a copy together with a translation of a Note Verbale received from the Foreign Office⁵⁷ in reply to the Embassy's Note No. 117 of May 14th,⁵⁷ a copy of which was forwarded to the Department under cover of my despatch above referred to.

The Department will note that the Italian Government finds it impossible to accede to the request, in view of the fact that it would require granting to the officials in question authorization to perform duties in the Kingdom which the Italian laws do not require of its own officials.

I have [etc.]

GEORGE T. SUMMERLIN

⁵⁷ Not printed.

⁵⁸ See footnote 41, p. 227.

121.5741/2b : Telegram

*The Acting Secretary of State to the Ambassador in Great Britain
(Houghton)*

[Paraphrase]

WASHINGTON, June 26, 1925—11 a. m.

199. The Department has received information from several reliable sources indicating that British Government is likely to refuse diplomatic status to customs attachés, that it will raise no objection to market-value and export-value investigations and, while as matter of principle it will not admit right of this Government to make cost-of-production investigations, it will permit such investigations in practise if individual firm concerned does not voice objections to British Government.

The Department deems it most important that no absolute prohibition be raised against cost-of-production investigations by customs attachés. For this reason Department suggests that you point out to Chamberlain either formally or informally, as you think expedient, the following specific considerations which the British commercial counselor here believes may influence the Foreign Office to waive objections as practical matter for time being:

In the past, cost-of-production investigations have been very few; Treasury will seek to minimize necessity for them in the future; no request for cost-of-production investigations will be sent to London until they are reviewed by responsible officials of the Treasury in Washington and until these officials are convinced that cost of production is absolutely necessary for legal valuation of goods for customs purposes. Cost-of-production investigations will, when ordered, be made in England only by the principal customs attaché and not by his assistants.

Department understands informally that British objection to allowing cost-of-production investigations rests partly on fear that such permission would be admission as matter of principle of right of foreign government to make detailed investigations and that an admission of that sort would be embarrassing were Russian or German Governments to make similar requests. At your discretion you may point out that Government of the United States does not request permission desired as matter of right, and that if permission is accorded it can be withdrawn at any time by British Government at its discretion; no embarrassing precedent, therefore, need be feared.

GREW

121.5756/1

The Minister in the Netherlands (Tobin) to the Secretary of State

No. 473

THE HAGUE, June 30, 1925.

[Received July 14.]

SIR: I have the honor to acknowledge the receipt of the Department's Instruction No. 226, of April 21, 1925,⁶⁰ directing me to inform the Netherlands Government of the appointment of certain Customs Attachés and Assistant Customs Attachés to this Legation and to request their recognition in their respective capacities by the appropriate authorities. In making this notification, I was directed to state the general duties of these Attachés and my best efforts were desired in explaining their duties to the Netherlands authorities.

I did not fail to carry out your instructions to the fullest extent but regret to inform you that, in answer to my representations, I have been informed by a communication from the Netherlands Foreign Office copies and translations of which are enclosed herewith,⁶¹ that it seems difficult to the Netherlands Government to bring the duties outlined in Section 402 of the United States Tariff Act of 1902 [1922], which are incumbent upon the "Customs Attaché" and his assistants within the compass of the functions of diplomatic agents. The Netherlands Government furthermore believes that considerations of a general nature seem to be opposed to granting an extension of the functions recognized by International Law as those belonging to members of the Diplomatic Corps, and regrets that it finds it impossible to accede to my request that these officials be attached to this Legation.

I have [etc.]

RICHARD M. TOBIN

121.5760h/1

The Minister in the Kingdom of the Serbs, Croats and Slovenes (Dodge) to the Secretary of State

No. 2733

BELGRADE, July 2, 1925.

[Received July 22.]

SIR: I have the honor to acknowledge the receipt on May 7th last of your Instruction No. 563, File No. [121.5760h/-], dated April 21st last,⁶⁰ informing me that Mr. James F. O'Neill, had been attached to this Legation, as well as to certain other Missions, as Customs Attaché and that Messrs. George R. Coxe, John P. Griebel and Lucien Picard had also similarly been attached, the first two as

⁶⁰ See footnote 41, p. 227.⁶¹ Not printed.

Assistant Customs Attachés and the last as Customs Clerk. According to your directions, I immediately addressed an official communication to the Minister for Foreign Affairs, advising him of these appointments and conveying to him the information regarding them which is contained in your Instruction. I also took advantage of a conversation soon thereafter with the Foreign Minister, Dr. Nintchitch, to draw his attention to my communication and to explain to him the duties of these Attachés. Dr. Nintchitch informed me that the matter would have his full attention.

Having had no reply to my communication, I availed of a recent conversation with Dr. Nintchitch again to invite his attention to this subject and he replied that he had not failed to give his consideration to my communication but that he had heard that a number of Governments had signified objection to the recognition of representatives of the American Customs as Customs Attachés and that accordingly his Government had decided to await until at least one or more of these Governments had decided to recognize these Attachés before finally deciding whether or not to recognize them itself. He then asked me for certain further explanations regarding their duties which I was able to furnish him from the information in your Instruction and in your Circular Instruction of April 2nd 1925. I then stated that I hoped that the reason for their desired recognition was clear to him and also the benefits which these Attachés would render to commercial exchanges between the United States and Yugoslavia. Dr. Nintchitch replied that these reasons were clear to him but that in view of the objections which he had heard had been raised by other Governments, he considered that his Government should not be the first to give recognition.

The attitude thus taken by the Yugoslav Government in this matter is one, as has already been reported in a number of other matters, which is often taken by it. Although it may not see anything objectionable in the recognition of these Attachés, it is as usual suspicious, realizing that it is not well versed in such matters, and it sees no reason why it should act before its great Allies have acted.

I shall continue to bring Dr. Nintchitch's attention to this matter from time to time and I shall continue to do everything possible to accelerate his favorable decision. I beg to request that I may be informed of any favorable decisions of other Governments which would undoubtedly have a very favorable influence upon the decision of the Yugoslav Government.

I have [etc.]

H. PERCIVAL DODGE

121.5765/2

The Acting Secretary of State to the Ambassador in Italy (Fletcher)

No. 324

WASHINGTON, July 10, 1925.

SIR: The receipt is acknowledged of your despatch No. 485, of June 23, 1925, with its enclosures, stating that the Italian Government cannot accord diplomatic status to Customs Attachés because the recognition of such status would require the Italian Government to grant to the officials in question authorization to perform duties in Italy which Italian laws do not require of Italian officials.

The Department interprets the Italian note to mean merely that diplomatic status for these officials is refused and not that they are in future prohibited from performing in Italy their duties under the Tariff Act of 1922.

In order that there may be no misunderstanding, you are requested to make informal inquiries on this subject and satisfy yourself that the Department's understanding is correct, and that the Customs Officials may properly continue to perform the functions which they have heretofore performed in Italy.

In case the Italian Government intends to prohibit their further activities in Italy, you are instructed to point out again the considerations advanced in the Department's circular instruction of April 2, 1925, emphasizing the difficulties which would inevitably arise for Italian exporters in case investigations in Italy were not permitted.

I am [etc.]

JOSEPH C. GREW

121.5741/3 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

LONDON, July 11, 1925—1 p. m.

[Received July 11—10:07 a. m.]

213. Have received two official and one unofficial notes from the Foreign Office⁴⁴ regarding customs attachés which will be forwarded by Monday's pouch. The first refuses diplomatic status to attachés; the second maintains British Government's objection in principle to inquiry as to cost of production with its element of compulsion and suggests that for the purpose an expert [*chartered?*] accountant, approved by the United States Government and the firm in question, should be appointed to examine books and give certificate. The informal communication explains that, while maintaining the question

⁴⁴ None printed.

of principle, it is hoped in practice the customs attachés will be able to carry out their functions in such a way as not to cause complaints arising out of the question of principle.

HOUGHTON

121.5764/1

The Minister in Hungary (Brentano) to the Secretary of State

No. 680

BUDAPEST, July 18, 1925.

[Received August 3.]

SIR: With reference to the Department's instruction No. 940 of April 21, 1925,⁶⁵ concerning agents of the Customs Division of the United States Treasury stationed abroad being regularly and officially attached to American Diplomatic Missions, I have the honor to transmit a copy of a note from the Foreign Office dated July 8, 1925,⁶⁶ received yesterday, stating that Mr. James F. O'Neill, Customs Attaché, is placed on the Hungarian diplomatic list. Mr. O'Neill has been informed of this action.

I have [etc.]

THEODORE BRENTANO

121.5751/3 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

PARIS, July 22, 1925—1 p. m.

[Received July 22—8:50 a. m.]

394. Your instruction number 1475, April 21st, 1925. Have just received note from Foreign Office stating that it cannot grant diplomatic status to customs attachés. Copy of the note going forward by next pouch.⁶⁶

WHITEHOUSE

121.5758/4

The Chargé in Sweden (Magruder) to the Secretary of State

No. 529

STOCKHOLM, July 23, 1925.

[Received August 13.]

SIR: With reference to the Department's instruction No. 123 of April 21, 1925, (no File No.), respecting the appointment of Customs Attachés, and to the Legation's reply thereto No. 479 of May 25, 1925,⁶⁷ I have the honor to report that I am now in receipt of a note

⁶⁵ See footnote 41, p. 227.

⁶⁶ Not printed.

⁶⁷ No. 479 not printed.

from the Acting Minister for Foreign Affairs, a copy and translation of which are herewith enclosed, to the effect that the Swedish Government regrets that it is not in a position to give a favorable reply to the request that customs attachés be recognized as members of the Legation.

I have [etc.]

ALEXANDER R. MAGRUDER

[Enclosure—Translation]

The Swedish Acting Minister for Foreign Affairs (Nothin) to the American Chargé (Magruder)

STOCKHOLM, July 21, 1925.

MR. CHARGÉ D'AFFAIRES: In a letter dated May 20th last you were good enough to inform me of the appointment of Mr. F. X. A. Eble in the capacity of Customs Attaché and of that of Mr. C. S. Turrill in the capacity of Assistant Customs Attaché to the Legation of the United States of America, as well as to ask that the Government of the King be good enough to recognize these officials in their respective capacities.

After having given a detailed explanation of the duties devolving on customs attachés, you were good enough to show in your letter that the more precise manner, in which it is proposed to regulate the organization of their activity, is the result of earnest efforts which have been made by the American authorities in order to conform to the desires of the Government of the King, as expressed in the observations which were recently made on this subject by this Ministry to Mr. Bliss and by the Minister of the King at Washington to the State Department.

The Government of the King, which is aware that this passage in your letter refers to the protest by which it took exception, a short time ago, to a decision of the Treasury Department not to authorize the importation into the United States of products of two Swedish enterprises, owing to the fact that these enterprises had declared that they could not permit a representative of the said Department to examine their books and commercial documents, appreciates thoroughly the good will shown by your Government in order to reach an agreement in the question at issue. It seems, however, to the Government of the King that the proposed arrangement is not of such a nature as to weaken the objections which it has formulated on this subject.

According to the opinion of the Government of the King, the duties which would devolve on customs attachés, namely those which would consist in making investigations of private enterprises abroad, are

hardly of a nature to be classed among those which, according to established usages, can be recognized as of a diplomatic character. The extension of diplomatic immunities in favor of the officials in question would have an effect the more grave inasmuch as the Government of the King, in acquiescing to the request of the Government of the United States of America, might be considered as having indirectly authorized foreign officials to examine the commercial books of Swedish houses and as tending to release on Swedish territory an activity which is not even recognized as pertaining to the authorities of the country.

Under these conditions the Government of the King regrets that it is not in a position to give a favorable reply to the desire expressed by the Government of the United States of America to see its officials in question recognized as members of your Legation.

Accept [etc.]

TORSTEN NOTHIN

121.5763/2

The Minister in Austria (Washburn) to the Secretary of State

No. 775

VIENNA, July 31, 1925.

[Received August 17.]

SIR: Referring to the Department's instruction No. 735 [731] of April 21, 1925, in relation to the diplomatic recognition of Customs Representatives or Attachés, and my reply telegram No. 25 of May 13, 1925, 7 p. m.,⁹⁹ I have the honor to submit the following report:

The above-mentioned Department instruction was received at this Legation on May 6. I made oral representations to the Foreign Minister, Dr. Mataja, on May 8. At that time, he gave me the oral assurances upon which my telegram was based in almost these precise words: "I know the story, we are not delighted at the prospect. (*Wir sind gar nicht entzückt davon.*) But it does not seem to me that the matter is of great importance to us. I am willing, in view of what you say, that diplomatic recognition should be accorded. We will do it quietly, and the less we say about it the better." The following day, May 9, I addressed a confirmatory note to Dr. Mataja in which I took occasion to outline the duties of the Attachés in accordance with the hereinbefore-mentioned Department instruction No. 731. A copy of this note is enclosed herewith marked Annex 1.⁹⁹ It will be observed that I distinctly stated therein that the Foreign Minister had been "good enough to say that it was agreeable to the Austrian Government to recognize such agents". There is no con-

⁹⁹ Not printed.

troversy about this, but I emphasize it in order that the Department may fully understand my telegram No. 25.

Some time later in the month of May, in talking with Sektionschef Dr. Wildner to whom, as I knew, the matter had been referred, I became aware of some hitch, and it presently developed that the under-officials of the Foreign Office had taken the stand that official courtesy and procedure required that the interested departments of the Government, viz., the Ministry of Finance and the Ministry of Commerce, should be invited to express their opinions. The Chamber of Commerce had, I learned, in turn communicated with various Austrian Chambers of Commerce, and it was evident that some protest rumblings had been heard, especially from a Vienna firm the importation of whose goods into the United States had under the law been prohibited. Nevertheless, Dr. Wildner did not seem to me to be inherently hostile, and I argued the matter with him at some length. He finally said to me, "If you will embody what you have said to me in a note which I can use with the Ministry of Commerce, I think it quite possible that the explanations you have made will overcome the existing objections." He gave me the impression that he felt that the matter could be adjusted with a little patience. A copy of the note dispatched in accordance with this interview, dated May 28, is herewith enclosed marked Annex 2.⁷⁰ It incorporates, as will be perceived, statements contained in Department circular instruction of April 2, 1925.

I have recently—a formal reply from the Foreign Office being still outstanding,—taken occasion to bring up the matter again orally. The official with whom I talked after a little hesitation told me in confidence that while it was true that the formal replies from the Departments of Finance and Commerce had not been received, the greatest obstacle now was a political one. It had been brought to the attention of the Austrian Government that other nations were raising serious objections to the diplomatic recognition of American Customs Representatives. England, Italy, Switzerland, Spain, and the Scandinavian States, I recall among others whom he specifically mentioned in this connection. Germany, he said, was hesitating and uncertain as to what answer it would return. He gave me the distinct impression that some of the resident Chiefs of Missions, at least here in Vienna, had discussed the matter at the Austrian Foreign Office, probably in the interest of uniformity of action. As a case in point, Italy was mentioned, where it was said that it was found impossible to invest American Treasury representatives with powers and functions which, it was alleged, no corresponding Italian official had. It

⁷⁰ Not printed.

was of course recognized that an American Treasury official or Customs Representative would have no power to enforce his requests, but the mere fact that he was dignified with diplomatic status would put him in a place of vantage and be misunderstood by Italian manufacturers, who in many cases would assume that they must comply with requests made under such circumstances. I mention this merely as an illustration to show that some communication has passed between Vienna and Rome, whether the intermediary was the resident Italian Minister or the Austrian Minister at Rome I do not, of course, know. Austria, my informant said, was a small country, and wished to avoid being put in the position of being perhaps the only country to accord such recognition. He particularly inquired whether any other country had acted favorably upon a similar request. I assume that I might have mentioned Canada, but it did not seem to me, under the circumstances, that such an example would especially help. Finally, I was begged to regard the information given me as strictly confidential. The official with whom I talked has the rank of Minister Plenipotentiary. I took occasion to allude casually to the fact that in Vienna and Berlin, as well as in Paris and London, many obscure Soviet commercial representatives were carried on the diplomatic list. The force of this was frankly recognized. Apart from the fact that it might be conspicuous as presenting an isolated instance, the Minister thought that the diplomatic recognition of American Customs Representatives was not, in and of itself, so objectionable. Their functions and duties under diplomatic protection presented, however, a more serious question. So long as these Representatives acted without formal recognition, here at least their presence would be winked at and ignored. To accord them formal recognition might be embarrassing.

I shall not fail, of course, to keep this matter to the fore. There is no real hostility here, at least in the Foreign Office. On the other hand, up to a certain point a spirit of accommodation is evident. If any other nation, especially any European nation, has taken favorable action, I trust the Department will notify me,—preferably by cable.⁷¹ To cite a concrete case, or concrete cases, will greatly help. If I cannot do so, I despair of the final outcome.

I have [etc.]

ALBERT H. WASHBURN

⁷¹ On August 20 the Minister was informed that Hungary and Rumania had accorded diplomatic status to customs attachés. On December 23 the Minister was instructed that the Department was "inclined to consider the informal statements by officials of the [Austrian] Ministry for Foreign Affairs, reported in your despatch No. 775, as equivalent to a refusal of diplomatic status" (instruction No. 407, not printed; file No. 121.5763/4).

121.5765/8

The Chargé in Italy (Robbins) to the Secretary of State

No. 551

ROME, August 8, 1925.

[Received August 27.]

SIR: I have the honor to acknowledge receipt of the Department's Instruction No. 324 of July 10, 1925, with reference to the statement of the Italian Government to the effect that it cannot afford diplomatic status to Customs Attachés because the recognition of such status would require the Italian Government to grant to the officials in question authorization to perform duties in Italy which Italian laws do not require of Italian officials.

I note that the Department interprets this Note as meaning that the diplomatic status for these officials is refused, and not that they are in future prohibited from performing in Italy their duties under the Tariff Act of 1922, and, furthermore, that the Department desires me to make informal inquiries on this subject.

A member of the Embassy, therefore, called at the Foreign Office and was informed by the Chief of the section interested in this matter that the Customs Officials referred to would not be prohibited from carrying out their duties any more than they had been in the past. Attention was called, however, as in the Note, to the fact that neither the officials of a foreign government nor even of the Italian Government were permitted by law to inspect business concerns providing such concerns were in good standing, and that, therefore, any inspections made by the Customs Attachés would depend upon the acquiescence of the owners of the factories and business concerns.

It, therefore, appears that the usefulness of the Customs Attachés in Italy will depend entirely on the tact and ability they may use in securing permission to make their inspections.

I have [etc.]

WARREN D. ROBBINS

121.5759/6

The Minister in Denmark (Prince) to the Secretary of State

No. 936

COPENHAGEN, August 11, 1925.

[Received August 29.]

SIR: With reference to the Department's Instruction No. 271, dated April 21st, 1925," and the Legation's Despatch No. 886, of May 29,

" See footnote 41, p. 227.

1925,⁷³ relative to the proposed recognition by the Danish Government of certain Customs Attachés and assistant Customs Attachés in their respective official capacities, I have the honor to enclose, herewith, a copy and translation of a Note from the Danish Foreign Office, dated August 7th, 1925,⁷³ regretting that the Government of Denmark is unable to conform to the wishes expressed on this subject by the Government of the United States.

As I have already pointed out in the Despatch above-mentioned, the Danish Government has delayed its reply in order to act in concert with certain other Scandinavian countries, and it may be of interest to note in this respect, that the reasons given for refusing the request of the United States Government are identical with those given by the Government of Sweden.⁷⁴

In a conversation with Count Reventlow on this subject, I was confidentially informed that, apart from the attitude of the Danish Government as expressed in its Note, the Foreign Office was averse at the present time to the granting of diplomatic status to other Government officials beyond those at present recognized, because of the probability of similar requests from the Soviet Legation for the various Attachés assigned to that mission.

I have [etc.]

JOHN DYNELEY PRINCE

121.5757/4

The Minister in Norway (Swenson) to the Secretary of State

No. 659

OSLO, August 19, 1925.

[Received September 8.]

SIR: Referring to my Nos. 610, 621, 627, and 636, dated, respectively, May 29th, June 11th, June 20th, and July 11, 1925,⁷⁵ I have the honor to report that in a note, dated the 15th instant, the Norwegian Government has declined to accede to the Department's request for recognition of Mr. F. X. A. Eble and Mr. Charles L. Turrill, as Customs Attachés to this Legation. I enclose herewith a copy of the above-mentioned note from the Foreign Office, together with a translation thereof.⁷⁶ You will also find enclosed herewith a copy of my note of May 14th last, to the Minister of Foreign Affairs.⁷⁷

I have [etc.]

LAURITS S. SWENSON

⁷³ Not printed.

⁷⁴ See note of July 21 from the Swedish Acting Minister for Foreign Affairs to the American Chargé, p. 242.

⁷⁵ None printed.

121.5762/3

The Ambassador in Germany (Schurman) to the Secretary of State

No. 198

BERLIN, August 20, 1925.

[Received September 3.]

SIR: I have the honor to report that, in compliance with the Department's instruction No. 3821 of April 21, 1925,⁷⁷ I informed the Foreign Office that certain agents of the Customs Division of the United States Treasury had been attached to the Embassy and requested recognition of them in their respective capacities by the German Government.

The Embassy is now in receipt of a Foreign Office Note Verbale, No. III A 1977, of the seventeenth instant in reply, a copy and translation of which are transmitted herewith,⁷⁸ in which the Foreign Office states that the German Government is not in a position to accord the recognition requested, since, in the opinion of the Foreign Office, the duties which the "contemplated American officials" are to perform in Germany are not duties which should, according to international regulations or international usage, be performed by officials of a diplomatic career. The Foreign Office adds that for this reason, the German Government has misgivings of a fundamental nature against having officials who have to perform the contemplated duties attached to a diplomatic mission in Berlin.

.

I have [etc.]

JACOB GOULD SCHURMAN

121.5793/3

The Consul General at Hongkong (Tredwell) to the Secretary of State

No. 24

HONGKONG, September 22, 1925.

[Received October 26.]

SIR: I have the honor to transmit herewith copy of a communication received to-day from the Colonial Secretary of the Colonial Government of Hongkong,⁷⁸ in which I am informed that His Excellency the Governor has withdrawn the provisional recognition which was accorded to Mr. H. C. Anderson, Assistant Customs Attaché, at this port.⁷⁹

I have [etc.]

ROGER CULVER TREDWELL

⁷⁷ See footnote 41, p. 227.

⁷⁸ Not printed.

⁷⁹ The consul in charge at Hongkong had been instructed on May 5 to notify the local authorities of the appointment of Mr. Anderson as assistant customs attaché at Hongkong (file No. 121.5793/a).

121.5760c/1 : Telegram

The Minister in Poland (Stetson) to the Secretary of State

WARSAW, September 23, 1925—10 a. m.

[Received 2 p. m.]

88. Your despatch number 110, April 21, regarding customs attachés.⁸⁰ Foreign Office has made negative answer.

STETSON

121.5768/1

The Minister in Greece (Laughlin) to the Secretary of State

No. 428

ATHENS, October 6, 1925.

[Received November 3.]

SIR: In reply to your instruction No. 189 of April 21st,⁸⁰ in which you informed me that Mr. James F. O'Neill had been attached to this Legation as Customs Attaché and in which you directed me to request his recognition and those of his subordinates in their respective capacities by the proper authorities, I have the honor to report that I am to-day in receipt of an undated note from the Foreign Office in which the Hellenic Government expresses its regret at not being able to accord the recognition desired to these officials. A copy and translation of the note will be found enclosed herewith.⁸¹

I have [etc.]

IRWIN LAUGHLIN

121.5753/4

The Minister in Portugal (Dearing) to the Secretary of State

No. 1208

LISBON, October 7, 1925.

[Received October 19.]

SIR: Adverting to the Department's instruction No. 639, of April 21, 1925, relative to the appointment of Customs Attachés to this Legation,⁸⁰ I now have the honor to transmit herewith copy and translation of a note from the Portuguese Minister for Foreign Affairs in answer to my note No. 318, of May 9, 1925, copy of which was transmitted the Department as an enclosure to my despatch No. 1070, of May 9, 1925.⁸²

In view of the fact that the Portuguese Government has now expressed its inability to accept the proposal for the appointment of

⁸⁰ See footnote 41, p. 227.

⁸¹ Not printed.

⁸² None printed.

Customs Attachés to this Legation, I have the honor to request that the Department be so good as to issue to the Legation such instructions as it deems necessary under the circumstances.⁸⁶

I have [etc.]

FRED MORRIS DEARING

121.5754/8

The Minister in Switzerland (Gibson) to the Secretary of State

No. 597

BERNE, November 4, 1925.

[Received November 30.]

SIR: I have the honor to report that on October 18th I received the Department's telegram No. 88 of October 8th⁸⁷ directing me to seek an early reply from the Swiss Government to the request that our Customs Representatives in Switzerland be granted diplomatic status and recognized as Customs Attachés. I immediately sought an interview with Monsieur Motta, Federal Councillor, Chief of the Political Department but, in view of the number of his previous engagements Monsieur Motta could not receive me until the morning of October 22nd.

I explained the situation to Monsieur Motta and said that my Government would greatly appreciate an early reply to the request submitted by Mr. Boal⁸⁸ on May 29th (See my despatch No. 465, July 18, 1925).⁸⁷ Monsieur Motta said that I would receive a note on the subject in the course of a few days, as soon as its text was formally approved by the Federal Council. He added, however, that he could tell me informally the nature of the reply, which was to be an expression of regret at the inability of the Federal Government to accord diplomatic status to the Customs Representatives.

Monsieur Motta went on to say that he had felt grave doubts from the beginning as to the possibility of acceding to our request, but as Mr. Boal had set forth our point of view so earnestly and convincingly, he felt the whole question deserved a careful examination before a decision was reached. The Federal Council had expressed its reluctance to refuse a request from us if any proper way could be found to meet our wishes and he had gone into the question thoroughly with the help of the Department of Public Economy. Monsieur Motta said that he had allowed the study of the question to pursue a leisurely course for two reasons, first, in order that the matter might be given careful consideration, and second, in the belief that most other Governments would probably give unfavorable answers and that if a Swiss refusal became inevitable it would

⁸⁶ See circular instruction of December 24, p. 252.

⁸⁷ Not printed.

⁸⁸ Second secretary of legation in Switzerland.

make a less painful impression if it came after refusals had been received from more important governments.

He then stated that the decision of the Federal Council was based chiefly on two grounds; first that these agents are not engaged on work which entitles them to diplomatic status,—they have no dealings with Swiss authorities and their activities are confined entirely to private inquiries and dealings with private individuals; second, that if recognition were accorded to the Customs Attachés a precedent would be created under which it would be difficult to refuse diplomatic status to officials of other governments, no matter how far fetched their claims might be. He said that the Federal Council had in the past repeatedly refused to recognize as members of foreign legations officials engaged on special work bearing on education, agriculture, labor problems, etc.; that if our request were to be complied with the Swiss Government would be deluged with similar requests from other governments, and that although it was very distasteful to them to refuse our request it was considered wiser to do so in the hope of avoiding future difficulties.

Monsieur Motta stated that he and his colleagues on the Federal Council had been much impressed by Mr. Boal's presentation of the subject, that it was clearly understood that it was our intention to create a helpful agency to facilitate business transactions and that there had never been any intention of setting up an inquisitorial agency. He added, however, that Swiss business houses were under a definite impression that our Customs Representatives were intent on intolerable interference in their affairs and that he feared this impression could not be eradicated so long as the present procedure was maintained. He expressed the hope that some other method might be found which would maintain the advantages which we desired to grant while avoiding the objections which he had pointed out.

The written reply promised by Monsieur Motta was delayed for some time because of minor changes in the text which were desired by the Federal Council, but it has now been received and is forwarded in copy and translation herewith.⁸⁹

It will be observed that the reasons given in the note are not identical with those given me verbally by Monsieur Motta. They are, first, that the functions of these agents have no bearing upon the relations between our two governments; and second, that the desired recognition would vest them with powers which, under Swiss law, are not enjoyed even by Swiss officials.

I have [etc.]

HUGH GIBSON

⁸⁹ Not printed.

121.57/14

*The Acting Secretary of State to Certain Diplomatic and Consular Officers*⁹⁰

WASHINGTON, December 24, 1925.

SIRS: Reference is made to previous instructions relative to the Act of Congress, approved January 13, 1925, providing, *inter alia*, that officials of the Treasury should be regularly and officially attached to American Diplomatic Missions abroad in the capacity of "Customs Attachés."

Pursuant to this Act, the Department instructed the Chiefs of the appropriate Diplomatic Missions to request recognition for the "Customs Attachés" assigned to duty at their Missions. These requests for recognition have been almost universally refused by the governments concerned, and it is obviously inadvisable for further efforts to be made by this Government to bring about recognition of a diplomatic status for "Customs Attachés."

It may be pointed out here that no foreign government has refused to permit the "Customs Attachés" to reside at their posts of duty and to carry out their duties under the Tariff Act of 1922. Therefore, the "Customs Attachés" are, from the point of view of their duties under that Act, unaffected by the refusals of foreign governments to accord them diplomatic status.

According to the opinion of the Treasury, the officials in question possess the legal title of "Customs Attaché", and their reports to the Treasury, as well as their vouchers and other official documents, must bear this title. However, in view of the refusal of foreign governments to accord them diplomatic status, the Treasury has agreed that the further public use of the title "Customs Attaché" in foreign countries would be inadvisable. Therefore, instructions have been transmitted to all "Customs Attachés" directing them to avoid the use of their legal title on letterheads, correspondence, or business cards, and to adopt for these purposes the former title of "Customs Representative". A copy of the Treasury's instructions, dated December 10, 1925, is transmitted herewith for your information.⁹¹

You will also observe that these officials will hereafter be furnished Special Passports in which they are described as: ". . . Name . . . an Official of the United States Treasury Department, Customs Service, travelling abroad on Official Business of the United States Government."

⁹⁰ i. e., those in countries in Europe with which the United States maintained diplomatic relations, and in China and Japan.

⁹¹ Not printed.

You will further note that the Treasury will request the Congress to repeal the provisions of the Act of January 13, 1925, which, for practical purposes, have been nullified by the refusal of foreign governments to accord diplomatic status to "Customs Attachés".

The Department's Circular Instruction of April 2, 1925, remains in effect, and it is expected that the cooperation described therein, between Diplomatic Missions and representatives of the Customs Service will continue. You are directed to give all proper assistance to these officials, bearing in mind that their obligation to carry out the provisions of the Tariff Act of 1922 is in no way impaired by the refusal of any foreign government to accord to them diplomatic status. You will take every appropriate occasion to explain to the appropriate foreign officials the duties of the Customs officials, as described in the Tariff Act, and the Department's Instruction of April 2, 1925, and to remove any misunderstandings that may exist.

In reply to a request of the Treasury Department that instructions be issued to American Diplomatic Missions directing them to obtain for "Customs Attachés" *laissez passer*, etc., as well as to endeavor to arrange exemption from police registration requirements and income taxation, the Department said: "The Department deems it inadvisable to issue specific instructions to its Diplomatic Missions directing them to request '*laissez passer*', etc., for your officials, since these special customs facilities are given by foreign governments only as special courtesies. The Department prefers to leave this matter to the discretion of the Diplomatic Missions concerned. It is suggested that each of your representatives take up this question with the American Diplomatic Mission with which he is in closest touch.

"The question of the liability of your representatives to police registration regulations and to income taxation abroad is dependent upon the domestic laws of individual countries. The Department, and American Diplomatic Missions, will continue to make every effort to obtain for your representatives such exemption as may properly be requested in specific cases as they arise."

This instruction is for your information only. The status of "Customs Attachés", from the point of view of American law, has not been changed. In those countries where they have been recognized as members of the Diplomatic Mission, they will continue to be so regarded pending a modification of the Act of January 13, 1925.

I am [etc.]

JOSEPH C. GREW

121.5760d/2

The Minister in Finland (Pearson) to the Secretary of State

No. 149

HELSINGFORS, February 27, 1926.

[Received March 26.]

SIR: I have the honor to refer to the Department's circular instruction dated April 2, 1925, regarding the appointment of Customs Attachés.⁹²

This matter was taken up with the Finnish Government upon receipt of the Department's instruction but only a few days ago was a definite reply received to the Legation's notes. A copy of the reply from the Finnish Foreign Office is enclosed herewith.⁹³ While the name of Eble alone is mentioned in the reply it is evident that the refusal to accord diplomatic status is intended to include all the Customs Attachés.

I have [etc.]

ALFRED J. PEARSON

INTERNATIONAL CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO BILLS OF LADING

Treaty Series No. 931

*International Convention for the Unification of Certain Rules
Relating to Bills of Lading, Concluded at Brussels, August 25,
1924*⁹⁴

[Translation]

The President of the German Republic, the President of the Argentine Republic, His Majesty the King of the Belgians, the President of the Republic of Chile, the President of the Republic of Cuba, His Majesty the King of Denmark and Iceland, His Majesty the King of

⁹² It was the Department's instruction No. 133 of May 5 (see footnote 41, p. 227), which dealt with the appointment of customs attachés.

⁹³ Not printed.

⁹⁴ In French only. Signed on the part of the United States, June 23, 1925; ratification advised by the Senate, May 6, 1937, subject to the following two understandings:

1. "Notwithstanding the provisions of Article 4, Section 5, and the first paragraph of Article 9 of the convention, neither the carrier nor the ship shall in any event be or become liable within the jurisdiction of the United States of America for any loss or damage to or in connection with goods in an amount exceeding \$500.00, lawful money of the United States of America, per package or unit unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading."

2. "That should any conflict arise between the provisions of the convention and the provisions of the Act of April 16, 1936, known as the 'Carriage of Goods by Sea Act', the provisions of said Act shall prevail.";

ratified by the President, subject to the said understandings, May 26, 1937; ratification of the United States deposited at Brussels, June 29, 1937; proclaimed by the President, Nov. 6, 1937.

Spain, the Chief of the Estonian State, the President of the United States of America, the President of the Republic of Finland, the President of the French Republic, His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Possessions Beyond the Seas, Emperor of India, His Serene Highness the Regent of the Kingdom of Hungary, His Majesty the King of Italy, His Majesty the Emperor of Japan, the President of the Republic of Latvia, the President of the Republic of Mexico, His Majesty the King of Norway, Her Majesty the Queen of the Netherlands, the President of the Republic of Peru, the President of the Republic of Poland, the President of the Portuguese Republic, His Majesty the King of Rumania, His Majesty the King of the Serbs, Croats and Slovenes, His Majesty the King of Sweden and the President of the Republic of Uruguay,

Having recognized the utility of laying down in common accord certain uniform rules relating to bills of lading, have decided to conclude a Convention to that effect and have designated as their Plenipotentiaries, namely:

The President of the German Republic:

His Excellency Mr. von Keller, Minister of Germany at Brussels.

The President of the Argentine Republic:

His Majesty the King of the Belgians:

Mr. L. Franck, Minister of Colonies, President of the International Maritime Committee;

Mr. A. Le Jeune, Senator, Vice President of the International Maritime Committee;

Mr. F. Sohr, Doctor of Law, Secretary General of the International Maritime Committee; Professor at the University of Brussels.

The President of the Republic of Chile:

His Excellency Mr. Armando Quezada, Minister of Chile at Brussels.

The President of the Republic of Cuba:

His Majesty the King of Denmark and Iceland:

His Majesty the King of Spain:

His Excellency the Marquis of Villalobar and Guimarey, Ambassador of Spain at Brussels.

Chief of the Estonian State:

His Excellency Mr. Pusta, Minister of Estonia at Brussels.

The President of the United States of America:

His Excellency Mr. William Phillips, Ambassador of the United States of America at Brussels.

The President of the Republic of Finland:

The President of the French Republic:

His Excellency Mr. M. Herbet, Ambassador of France at Brussels.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Possessions beyond the Seas, Emperor of India:

His Excellency the Right Honorable Sir George Grahame, G. C. V. O., K. C. M. G., Ambassador of His Britannic Majesty at Brussels.

His Serene Highness the Regent of the Kingdom of Hungary: Count Olivier Woracziczky, Baron of Pabienitz, Chargé d'Affaires of Hungary at Brussels.

His Majesty the King of Italy:

Mr. J. Daneo, Chargé d'Affaires ad interim of Italy at Brussels.

His Majesty the Emperor of Japan:

His Excellency Mr. M. Adatci, Ambassador of Japan at Brussels.

The President of the Republic of Latvia:

The President of the Republic of Mexico:

His Majesty the King of Norway:

Her Majesty the Queen of the Netherlands:

The President of the Republic of Peru:

The President of the Republic of Poland and the Free City of Danzig:

His Excellency Count Jean Szembek, Minister of Poland at Brussels.

The President of the Portuguese Republic:

His Majesty the King of Rumania:

His Excellency Mr. Henri Catargi, Minister of Rumania at Brussels.

His Majesty the King of the Serbs, Croats and Slovenes:

Messrs. Straznicky and Verona.

His Majesty the King of Sweden:

The President of the Republic of Uruguay:

Who, duly authorized therefor, have agreed on the following:

ARTICLE 1

In this convention the following words are employed with the meanings set out below:

(a) "Carrier" includes the owner of the vessel or the charterer who enters into a contract of carriage with a shipper.

(b) "Contract of carriage" applies only to contracts of carriage covered by a bill of lading or any similar document of title, insofar as such document relates to the carriage of goods by sea; it also applies to any bill of lading or any similar document as aforesaid issued under or pursuant to a charter party from the moment at which such instrument regulates the relations between a carrier and a holder of the same.

(c) "Goods" includes goods, wares, merchandise, and articles of every kind whatsoever except live animals and cargo which by the contract of carriage is stated as being carried on deck and is so carried.

(d) "Ship" means any vessel used for the carriage of goods by sea.

(e) "Carriage of goods" covers the period from the time when the goods are loaded on to the time they are discharged from the ship.

ARTICLE 2

Subject to the provisions of Article 6 under every contract of carriage of goods by sea the carrier, in relation to the loading, handling, stowage, carriage, custody, care, and discharge of such goods shall be subject to the responsibilities and liabilities, and entitled to the rights and immunities hereinafter set forth.

ARTICLE 3

1. The carrier shall be bound before and at the beginning of the voyage to exercise due diligence to:—

(a) Make the ship seaworthy;

(b) Properly man, equip, and supply the ship;

(c) Make the holds, refrigerating and cool chambers, and all other parts of the ship in which goods are carried, fit and safe for their reception, carriage, and preservation.

2. Subject to the provisions of Article 4 the carrier shall properly and carefully load, handle, stow, carry, keep, care for, and discharge the goods carried.

3. After receiving the goods into his charge the carrier or the master or agent of the carrier shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things:

(a) The leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage;

(b) Either the number of packages or pieces, or the quantity, or weight, as the case may be, as furnished in writing by the shipper;

(c) The apparent order and condition of the goods;

Provided that no carrier, master, or agent of the carrier shall be bound to state or show in the bill of lading any marks, number, quantity, or weight which he has reasonable grounds for suspecting not accurately to represent the goods actually received or which he has had no reasonable means of checking.

4. Such a bill of lading shall be prima facie evidence of the receipt by the carrier of the goods as therein described in accordance with paragraph 3 (a), (b), and (c).

5. The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of shipment of the marks, number, quantity, and weight, as furnished by him, and the shipper shall indemnify the carrier against all loss, damages, and expenses arising or resulting from inaccuracies in such particulars. The right of the carrier to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper.

6. Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the carrier or his agent at the port of discharge before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under the contract of carriage, such removal shall be prima facie evidence of the delivery by the carrier of the goods as described in the bill of lading.

If the loss or damage is not apparent, the notice must be given within three days of the delivery.

The notice in writing need not be given if the state of the goods has at the time of their receipt been the subject of joint survey or inspection.

In any event the carrier and the ship shall be discharged from all liability in respect of loss or damage unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered.

In the case of any actual or apprehended loss or damage the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods.

7. After the goods are loaded the bill of lading to be issued by the carrier, master, or agent of the carrier to the shipper shall, if the shipper so demands, be a "shipped" bill of lading, provided that if the shipper shall have previously taken up any document of title to such goods, he shall surrender the same as against the issue of the "shipped" bill of lading. At the option of the carrier such document of title may be noted at the port of shipment by the carrier, master, or agent with the name or names of the ship or ships upon

which the goods have been shipped and the date or dates of shipment, and when so noted, if it shows the particulars mentioned in paragraph 3 of Article 3, it shall for the purpose of this article be deemed to constitute a "shipped" bill of lading.

8. Any clause, covenant, or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to or in connection with goods arising from negligence, fault, or failure in the duties and obligations provided in this article, or lessening such liability otherwise than as provided in this convention, shall be null and void and of no effect. A benefit of insurance in favor of the carrier or similar clause shall be deemed to be a clause relieving the carrier from liability.

ARTICLE 4

1. Neither the carrier nor the ship shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the ship seaworthy and to secure that the ship is properly manned, equipped, and supplied and to make the holds, refrigerating and cool chambers, and all other parts of the ship in which goods are carried fit and safe for their reception, carriage, and preservation in accordance with the provisions of paragraph 1 of Article 3. Whenever loss or damage has resulted from unseaworthiness, the burden of proving the exercise of due diligence shall be on the carrier or other person claiming exemption under this article.

2. Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from:

(a) Act, neglect, or default of the master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship;

(b) Fire, unless caused by the actual fault or privity of the carrier;

(c) Perils, dangers, and accidents of the sea or other navigable waters;

(d) Act of God;

(e) Act of war;

(f) Act of public enemies;

(g) Arrest or restraint of princes, rulers, or people or seizure under legal process;

(h) Quarantine restrictions;

(i) Act or omission of the shipper or owner of the goods, his agent, or representative;

(j) Strikes or lockouts or stoppage or restraint of labor from whatever cause, whether partial or general;

(k) Riots and civil commotions;

- (l) Saving or attempting to save life or property at sea;
- (m) Wastage in bulk or weight or any other loss or damage arising from inherent defect, quality, or vice of the goods;
- (n) Insufficiency of packing;
- (o) Insufficiency or inadequacy of marks;
- (p) Latent defects not discoverable by due diligence;
- (q) Any other cause arising without the actual fault or privity of the carrier, or without the fault or neglect of the agents or servants of the carrier, but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage.

3. The shipper shall not be responsible for loss or damage sustained by the carrier or the ship arising or resulting from any cause without the act, fault, or neglect of the shipper, his agents, or his servants.

4. Any deviation in saving or attempting to save life or property at sea or any reasonable deviation shall not be deemed to be an infringement or breach of this convention or of the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom.

5. Neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with goods in an amount exceeding 100 pounds sterling per package or unit or the equivalent of that sum in other currency unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading.

This declaration if embodied in the bill of lading shall be prima facie evidence but shall not be binding or conclusive on the carrier.

By agreement between the carrier, master, or agent of the carrier and the shipper another maximum amount than that mentioned in this paragraph may be fixed, provided that such maximum shall not be less than the figure above named.

Neither the carrier nor the ship shall be responsible in any event for loss or damage to, or in connection with, goods if the nature or value thereof has been knowingly misstated by the shipper in the bill of lading.

6. Goods of an inflammable, explosive, or dangerous nature to the shipment whereof the carrier, master, or agent of the carrier has not consented with knowledge of their nature and character may at any time before discharge be landed at any place or destroyed or rendered innocuous by the carrier without compensation, and the shipper of such goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment. If any such goods shipped with such knowledge and consent shall become a

danger to the ship or cargo, they may in like manner be landed at any place or destroyed or rendered innocuous by the carrier without liability on the part of the carrier except to general average, if any.

ARTICLE 5

A carrier shall be at liberty to surrender in whole or in part all or any of his rights and immunities, or to increase any of his responsibilities and liabilities under this convention provided such surrender or increase shall be embodied in the bill of lading issued to the shipper.

The provisions of this convention shall not be applicable to charter parties, but if bills of lading are issued in the case of a ship under a charter-party they shall comply with the terms of this convention. Nothing in these rules shall be held to prevent the insertion in a bill of lading of any lawful provision regarding general average.

ARTICLE 6

Notwithstanding the provisions of the preceding articles, a carrier, master, or agent of the carrier and a shipper shall in regard to any particular goods be at liberty to enter into any agreement in any terms as to the responsibility and liability of the carrier for such goods, and as to the rights and immunities of the carrier in respect of such goods, or concerning his obligation as to seaworthiness so far as this stipulation is not contrary to public policy, or concerning the care or diligence of his servants or agents in regard to the loading, handling, stowage, carriage, custody, care, and discharge of the goods carried by sea, provided that in this case no bill of lading has been or shall be issued and that the terms agreed shall be embodied in a receipt which shall be a nonnegotiable document and shall be marked as such.

Any agreement so entered into shall have full legal effect:

Provided that this article shall not apply to ordinary commercial shipments made in the ordinary course of trade, but only to other shipments where the character or condition of the property to be carried or the circumstances, terms, and conditions under which the carriage is to be performed are such as reasonably to justify a special agreement.

ARTICLE 7

Nothing herein contained shall prevent a carrier or a shipper from entering into any agreement, stipulation, condition, reservation, or exemption as to the responsibility and liability of the carrier or the ship for the loss or damage to, or in connection with, the custody and care and handling of goods prior to the loading on, and subsequent to the discharge from, the ship on which the goods are carried by sea.

ARTICLE 8

The provisions of this convention shall not affect the rights and obligations of the carrier under any statute for the time being in force relating to the limitation of the liability of owners of seagoing vessels.

ARTICLE 9

The monetary units mentioned in this convention are to be taken to be gold value.

Those contracting states in which the pound sterling is not a monetary unit reserve to themselves the right of translating the sums indicated in this convention in terms of pound sterling into terms of their own monetary system in round figures.

The national laws may reserve to the debtor the right of discharging his debt in national currency according to the rate of exchange prevailing on the day of the arrival of the ship at the port of discharge of the goods concerned.

ARTICLE 10

The provisions of this convention shall apply to all bills of lading issued in any of the contracting States.

ARTICLE 11

After an interval of not more than two years from the day on which the convention is signed, the Belgian Government shall place itself in communication with the governments of the high contracting parties which have declared themselves prepared to ratify the convention, with a view to deciding whether it shall be put into force. The ratifications shall be deposited at Brussels at a date to be fixed by agreement among the said governments. The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the representatives of the powers which take part therein and by the Belgian Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification, addressed to the Belgian Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relating to the first deposit of ratifications, of the notifications referred to in the previous paragraph, and also of the instruments of ratification accompanying them, shall be immediately sent by the Belgian Government through the diplomatic channel to the powers who have signed this convention or who have acceded to it. In the cases contemplated in the preceding paragraph the said Government shall inform them at the same time of the date on which it received the notification.

ARTICLE 12

Nonsignatory States may accede to the present convention whether or not they have been represented at the International Conference at Brussels.

A State which desires to accede shall notify its intention in writing to the Belgian Government, forwarding to it the document of accession, which shall be deposited in the archives of the said Government.

The Belgian Government shall immediately forward to all the States which have signed or acceded to the convention a duly certified copy of the notification and of the act of accession, mentioning the date on which it received the notification.

ARTICLE 13

The high contracting parties may at the time of signature, ratification, or accession declare that their acceptance of the present convention does not include any or all of the self-governing dominions, or of the colonies, overseas possessions, protectorates, or territories under their sovereignty or authority, and they may subsequently accede separately on behalf of any self-governing dominion, colony, overseas possession, protectorate, or territory excluded in their declaration. They may also denounce the convention separately in accordance with its provisions in respect of any self-governing dominion, or any colony, overseas possession, protectorate, or territory under their sovereignty or authority.

ARTICLE 14

The present convention shall take effect, in the case of the States which have taken part in the first deposit of ratifications, one year after the date of the procès-verbal recording such deposit. As respects the States which ratify subsequently or which accede, and also in cases in which the convention is subsequently put into effect in accordance with Article 13, it shall take effect six months after the notifications specified in paragraph 2 of Article 11, and paragraph 2 of Article 12, have been received by the Belgian Government.

ARTICLE 15

In the event of one of the contracting States wishing to denounce the present convention, the denunciation shall be notified in writing to the Belgian Government, which shall immediately communicate a duly certified copy of the notification to all the other States informing them of the date on which it was received.

The denunciation shall only operate in respect of the State which made the notification, and on the expiry of one year after the notification has reached the Belgian Government.

ARTICLE 16

Any one of the contracting States shall have the right to call for a fresh conference with a view to considering possible amendments.

A State which would exercise this right should notify its intention to the other States through the Belgian Government, which would make arrangements for convening the conference.

Done at Brussels, in a single copy, August 25, 1924.

For Germany:

KELLER.

For the Argentine Republic:

For Belgium:

LOUIS FRANCK.

ALBERT LE JEUNE.

SOHR.

For Chile:

ARMANDO QUEZADA.

For the Republic of Cuba:

For Denmark:

For Spain:

The Marquis of VILLALOBAR.

For Estonia:

PUSTA.

For the United States of America:

WILLIAM PHILLIPS.

For Finland:

For France:

MAURICE HERBETTE.

For Great Britain:

GEORGE GRAHAME.

For Hungary:

WORACZICKY.

For Italy:

GIULIO DANEI.

For Japan:

M. ADATCI.

Subject to the reservations formulated in the note relative to this treaty and appended to my letter dated August 25, 1925, to His Excellency Mr. Emile Vandervelde, Minister for Foreign Affairs of Belgium.

For Latvia:

For Mexico:

For Norway:

For the Netherlands:

For Peru:

For Poland and the Free City of Danzig:

SZEMBEK.

For Portugal:

For Rumania:

HENRY CATARGI.

For the Kingdom of the Serbs, Croats and Slovenes:

DR. MILORAD STRAZNICKY.

DR. VERONA.

For Sweden:

For Uruguay:

PROTOCOL OF SIGNATURE

In proceeding to the signature of the international convention for the unification of certain rules relating to bills of lading, the undersigned plenipotentiaries have adopted the present protocol which will have the same validity as if the provisions thereof were inserted in the very text of the convention to which it refers.

The high contracting parties may give effect to this convention either by giving it the force of law or by including in their national legislation in a form appropriate to that legislation, the rules adopted under this convention.

They may reserve the right:

1. To prescribe that in the cases referred to in paragraph 2 (c) to (p) of Article 4, the holder of a bill of lading shall be entitled to establish responsibility for loss or damage arising from the personal fault of the carrier or the fault of his servants which are not covered by paragraph (a);

2. To apply Article 6 insofar as the national coasting trade is concerned to all classes of goods without taking account of the restriction set out in the last paragraph of that article.

Done at Brussels, in a single copy, August 25, 1924.

For Germany:

KELLER.

For the Argentine Republic:

For Belgium:

LOUIS FRANCK.

ALBERT LE JEUNE.

SOHR.

For Chile:

ARMANDO QUEZADA.

*For the Republic of Cuba:**For Denmark:**For Spain:*

The Marquis of VILLALOBAR.

For Estonia:

PUSTA.

For the United States of America:

WILLIAM PHILLIPS.

*For Finland:**For France:*

MAURICE HERBETTE.

For Great Britain:

GEORGE GRAHAME.

In proceeding to the signature of the present Convention, His Excellency made, in the name of his Government, the declaration of which the terms are reproduced in an annex to the present Procès-Verbal.

For Hungary:

WORACZICKY.

For Italy:

GIULIO DANELO.

*For Japan:**For Latvia:**For Mexico:**For Norway:**For the Netherlands:**For Peru:**For Poland and the Free City of Danzig:*

SZEMBEK.

For Portugal:

For Rumania:

HENRY CATARGI.

For the Kingdom of the Serbs, Croats and Slovenes:

Dr. MILORAD STRAZNICKY.

Dr. VERONA.

For Sweden:

For Uruguay:

[Annex 1]

I, the Undersigned, His Britannic Majesty's Ambassador at Brussels, on affixing my signature to the Protocol of Signature of the International Convention for the unification of certain rules relating to Bills of Lading, on this 15th day of November 1924, hereby make the following declarations by direction of my Government:

I declare that His Britannic Majesty's Government adopt the last reservation in the additional Protocol of the Bills of Lading Convention.

I further declare that my signature applies only to Great Britain and Northern Ireland. I reserve the right of each of the British Dominions, Colonies, Overseas Possessions and Protectorates, and of each of the territories over which His Britannic Majesty exercises a mandate to accede to this Convention under Article 13.

GEORGE GRAHAME

His Britannic Majesty's Ambassador at Brussels

BRUSSELS, this 15th day of November 1924.

[Annex 2]

IMPERIAL EMBASSY
OF JAPAN

NOTE ANNEXED TO THE LETTER OF HIS EXCELLENCY THE AMBASSADOR OF JAPAN TO THE MINISTER OF FOREIGN AFFAIRS OF BELGIUM, ON AUGUST 25, 1925

At the moment of proceeding to the signature of the International Convention for the unification of certain rules relating to Bills of Lading, the undersigned, Plenipotentiary of Japan, makes the following reservations:

a) *To Article 4:*

Japan reserves to itself until further notice the acceptance of the provisions in (a) of paragraph 2 of Article 4.

b) Japan is of the opinion that the Convention does not in any part apply to national coasting trade: consequently, there should be no occasion to make it the object of provisions in the Protocol. How-

ever, if it be not so, Japan reserves to itself the right freely to regulate the national coasting trade by its own law.

M. ADATCI

BRUSSELS, *August 25, 1925.*

**CONVENTION BETWEEN THE UNITED STATES AND OTHER POWERS
FOR THE PROTECTION OF INDUSTRIAL PROPERTY, SIGNED
NOVEMBER 6, 1925**

554.1 A 1/365

The Netherlands Minister (De Graeff) to the Secretary of State

No. 3474

WASHINGTON, *January 7, 1925.*

SIR: The next Conference of the "Union Internationale pour la Protection de la Propriété Industrielle" which will be held this year at The Hague, according to a communication of the "Bureau voor den Industrieelen Eigendom" (Netherlands Patent Office), which is making the preparatory arrangements for its reunion in coöperation with the Bureau Internationale pour la Protection de la Propriété Industrielle at Berne, is expected to be opened on October 8, 1925.

In view of the foregoing I have pursuant to instructions I received from the Minister of Foreign Affairs at The Hague the honor to extend in the name of my Government a cordial invitation to the Government of the United States of America to be officially represented at the said Conference.

I add that the Bureau Internationale pour la Protection de la Propriété Industrielle will soon send to the Federal Government the program of the items to be discussed. Moreover, this Bureau will forward to the United States Patent Office the complete collection of preparatory documents concerning this Conference.

Expressing the hope that I may have the pleasure of learning in due course of the acceptance of the aforesaid invitation by the Federal Government I should be thankful to be informed at the same time of the names of the delegates who will represent the United States at the Conference.

Please accept [etc.]

DE GRAEFF

554.1 A 1/372

The Secretary of State to the Netherlands Minister (De Graeff)

WASHINGTON, *March 3, 1925.*

SIR: Referring to your note of January 7, 1925, extending, in the name of your Government, an invitation to the Government of the United States to be officially represented at the International Con-

ference for the Protection of Industrial Property which is expected to be opened at The Hague on October 8th next, I have the honor to inform you that the Government of the United States accepts the invitation with pleasure, and that the Commissioner of Patents, Mr. Thomas E. Robertson, Mr. Wallace Lane, formerly President of the American Patent Law Association, of Chicago, and Mr. Jo. Bailey Brown, of Pittsburgh, Pennsylvania, who is a member of a committee appointed by the Secretary of the Interior to make a study of the Patent Office and patent laws, have been appointed to be delegates on the part of the United States to the Conference.

Accept [etc.]

CHARLES E. HUGHES

[For the proceedings of the Conference, see Union internationale pour la protection de la propriété industrielle, 1925, *Actes de la Conférence réunie à La Haye du 8 octobre au 6 novembre 1925* (Berne, Bureau International de l'Union, 1926).]

Treaty Series No. 834

*Convention Between the United States and Other Powers for the Protection of Industrial Property, Signed at The Hague, November 6, 1925*⁹⁵

[Translation]

The President of the German Reich; the President of the Republic of Austria; His Majesty the King of the Belgians; the President of the United States of Brazil; the President of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; His Majesty the King of Spain; the President of the Republic of Estonia; the President of the United States of America; the President of the Republic of Finland; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Serene Highness the Governor of Hungary; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Majesty the Sultan of Morocco; the President of the United Mexican States; His Majesty the King of Norway; Her Majesty the Queen of the Netherlands; the President of the Polish Republic, in the name of Poland and the Free City of Danzig; the President of the Portuguese Republic; His Majesty the King of the Serbs, Croats and Slovenes; His Majesty the King of Sweden; the

⁹⁵ In French only. Ratification advised by the Senate, Dec. 16, 1930; ratified by the President, Dec. 27, 1930; ratification of the United States deposited with the Government of the Swiss Confederation, Jan. 22, 1931; proclaimed by the President, Mar. 6, 1931.

Federal Council of the Swiss Confederation; the States of Syria and Greater Lebanon; the President of the Czechoslovak Republic; His Highness the Bey of Tunis; the President of the Turkish Republic,

Having deemed it expedient to make certain modifications and additions in the international convention of March 20, 1883,⁹⁶ for the creation of an international union for the protection of industrial property, revised at Brussels on December 14, 1900,⁹⁷ and at Washington on June 2, 1911,⁹⁸ have appointed as their plenipotentiaries, to wit:

The President of the German Reich:

Mr. W. F. von Vietinghoff, Counselor of the German Legation at The Hague;

Mr. von Specht, Privy Councilor, President of the Patent Office;

Mr. Klauer, Ministerial Councilor at the Ministry of Justice; Prof. Dr. Albert Osterrieth, Counselor of Justice;

The President of the Republic of Austria:

Dr. Carl Duschaneck, Ministerial Councilor, Vice President of the Austrian Patent Office;

Dr. Hans Fortwängler, Ministerial Councilor at that Office;

His Majesty the King of the Belgians:

Mr. Octave Mavaut, Director General of Industry at the Ministry of Industry, Labor, and Social Service;

Mr. Albert Capitaine, Advocate at the Liège Court of Appeal, former President of the Bar, Belgian Delegate at the Washington Conference;

Mr. Louis André, Advocate at the Brussels Court of Appeal;

Mr. Thomas Braun, Advocate at the Brussels Court of Appeal;

Mr. Daniel Coppieters, Advocate at the Brussels Court of Appeal;

The President of the United States of Brazil:

Dr. Julio Augusto Barboza Carneiro, Member of the Economic Committee of the League of Nations;

Prof. Dr. Carlos Americo Barbosa de Oliveira, Professor at the Polytechnic School, Director of the Wenceslau Braz Normal School of Arts and Crafts;

The President of the Republic of Cuba:

Dr. Raphael Martinez Ortiz, Envoy Extraordinary and Minister Plenipotentiary of Cuba at Paris;

Dr. Raphael de la Torre, Chargé d'Affaires of Cuba at The Hague;

His Majesty the King of Denmark:

Dr. N. J. Ehrenreich Hansen, Assistant Bureau Chief at the Ministry of Industry, Commerce, and Navigation;

⁹⁶ Malloy, *Treaties*, 1776-1809, vol. II, p. 1935.

⁹⁷ *Ibid.*, p. 1945.

⁹⁸ *Ibid.*, 1910-1923, vol. III, p. 2953.

The President of the Dominican Republic:

Mr. C. G. de Haseth Cz., Consul of the Dominican Republic at The Hague;

His Majesty the King of Spain:

His Excellency Mr. Santiago Mendez de Vigo, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Spain at The Hague:

Mr. Fernando Cabello y Lapiedra, Chief of the Spanish Bureau of Industrial and Commercial Property;

Mr. José Garcia-Monge y de Vera, Secretary of the Spanish Bureau of Industrial and Commercial Property;

The President of the Republic of Estonia:

Mr. O. Aarmann, Engineer, Director of the Patent Office;

The President of the United States of America:

Mr. Thomas E. Robertson, Commissioner of Patents, Member of the Bar of the Supreme Court of the United States;

Mr. Wallace R. Lane, former President of the American and Chicago Patent Law Associations, Member of the Bar of the Supreme Court of the United States and the Supreme Court of Illinois;

Mr. Jo. Bailly Brown, Pittsburgh, Member of the Bar of the Supreme Court of the United States and the Supreme Court of Pennsylvania;

The President of the Republic of Finland:

Mr. Yrjö Saastamoinen, Chargé d'Affaires of Finland at The Hague;

The President of the French Republic:

His Excellency Mr. Chassain de Marcilly, Envoy Extraordinary and Minister Plenipotentiary of France at The Hague;

Mr. Marcel Plaisant, Deputy, Advocate at the Paris Court of Appeal;

Mr. Charles Drouets, Director of Industrial Property at the Ministry of Commerce;

Mr. Georges Maillard, Advocate at the Paris Court of Appeal, Vice President of the Technical Committee on Industrial Property;

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India:

For Great Britain and Northern Ireland:

Sir Hubert Llewellyn Smith, G.C.B., Chief Economic Adviser to His Britannic Majesty's Government;

Mr. Alfred James Martin, O.B.E., Assistant Comptroller of the Patent Office and Industrial Property Department of the Board of Trade;

Sir Arthur Balfour, K.B.E., One of His Majesty's Justices of the Peace; Chairman of the Committee on Trade and Industry;

For the Dominion of Canada:

Mr. Frederick Herbert Palmer, M.C., Canadian Government Trade Commissioner;

For the Commonwealth of Australia:

Lieut. Col. Charles Vincent Watson, D.S.O., V. D., Commissioner of Patents and Registrar of Trade Marks and Designs;

For the Irish Free State:

Count Gerald O'Kelly de Gallagh, Representative of the Irish Free State;

His Serene Highness the Governor of Hungary:

Mr. Elemér de Pompéry, President of the Court of Patents;

His Majesty the King of Italy:

Mr. Domenico Barone, Councilor of State;

Mr. Gustavo de Sanctis, Director of the Bureau of Industrial Property;

Mr. Letterio Labocchetta, Engineer;

Mr. Gino Olivetti, Deputy, Secretary General of the Confederation of Italian Industry;

Prof. Mario Ghiron, Professor of Industrial Law at the University of Rome;

His Majesty the Emperor of Japan:

Mr. Saichiro Sakikawa, President of the Patent Office;

Mr. Nobumi Ito;

His Majesty the Sultan of Morocco:

His Excellency Mr. Chassain de Marcilly, Envoy Extraordinary and Minister Plenipotentiary of France at The Hague;

The President of the United Mexican States:

Mr. Julio Poulat, Commercial Attaché to the Mexican Legation at Paris;

His Majesty the King of Norway:

Mr. Birger Gabriel Wyller, Director General of the Norwegian Bureau of Industrial Property;

Her Majesty the Queen of the Netherlands:

Dr. J. Álingh Prins, President of the Council for Patents, Director of the Office of Industrial Property;

Dr. H. Bijleveld, former Minister, Member of the Chamber of Deputies, former President of the Council for Patents, former Director of the Office of Industrial Property;

Dr. J. W. Dijkmeester, Member of the Council for Patents;

The President of the Polish Republic:

For Poland:

His Excellency Dr. Stanislas Koźmiński, Envoy Extraordinary and Minister Plenipotentiary of Poland at The Hague;

Dr. Frédéric Zoll, Professor at the University of Cracow;

For the Free City of Danzig:

His Excellency Dr. Stanislas Koźmiński, Envoy Extraordinary and Minister Plenipotentiary of Poland at The Hague;

The President of the Portuguese Republic:

His Excellency Mr. A. C. De Sousa Santos Bandeira, Envoy Extraordinary and Minister Plenipotentiary of Portugal at The Hague;

His Majesty the King of the Serbs, Croats and Slovenes:

Dr. Yanko Choumane, President of the Office for the Protection of Industrial Property at the Ministry of Commerce and Industry;

Mr. Mihailo Preditch, Secretary of that Office;

His Majesty the King of Sweden:

Director General E. O. J. Björklund, Chief of the Administration of Patents and Registration;

Mr. K. H. R. Hjertén, Counselor of the Court of Appeal of Göta;

Mr. A. E. Hasselrot, former Bureau Director at the above Administration, Adviser in matters of industrial property;

The Federal Council of the Swiss Confederation:

His Excellency Mr. Arthur de Pury, Envoy Extraordinary and Minister Plenipotentiary of Switzerland at The Hague;

Mr. Walther Kraft, Director of the Federal Bureau of Intellectual Property;

The President of the French Republic:

For the States of Syria and Greater Lebanon:

His Excellency Mr. Chassain de Marcilly, Envoy Extraordinary and Minister Plenipotentiary of France at The Hague;

The President of the Czechoslovak Republic:

His Excellency Mr. P. Baráček, Engineer, Envoy Extraordinary and Minister Plenipotentiary of Czechoslovakia at The Hague;

Dr. Karel Hermann-Otavský, Professor at the University of Prague;

Mr. Bohuslav Pavlousek, Engineer, Vice President of the Patent Office at Prague;

His Highness the Bey of Tunis:

His Excellency Mr. Chassain de Marcilly, Envoy Extraordinary and Minister Plenipotentiary of France at The Hague;

The President of the Turkish Republic:

Mehmed Essad Bey, Chargé d'Affaires of Turkey at The Hague.

Who, having communicated to each other their respective full powers, which were found to be in good and due form, have agreed upon the following articles:

ARTICLE 1

The contracting countries constitute themselves into a union for the protection of industrial property.

The scope of the protection of industrial property includes patents, utility models, industrial designs and models, trade-marks, commercial names and indications of origin, or appellations of origin, as well as the repression of unfair competition.

Industrial property is to be understood in the broadest meaning and is to be applied not only to industry and commerce as such, but likewise to agricultural industries (wines, grain, tobacco leaves, fruit, cattle, etc.) and extractive industries (minerals, mineral waters, etc.).

The term "patents" includes the various types of industrial patents granted by the laws of the contracting countries, such as patents of importation, improvement patents, patents and certificates of addition, etc.

ARTICLE 2

Nationals of each of the contracting countries shall, in all other countries of the Union, as regards the protection of industrial property, enjoy the advantages that their respective laws now grant, or may hereafter grant, to their own nationals, without any prejudice of the rights specially provided by the present convention. Consequently they shall have the same protection as the latter, and the same legal remedy against any infringement of their rights, provided they observe the conditions and formalities imposed on subjects or citizens.

Nevertheless no condition as to the possession of a domicile or establishment in the country where protection is claimed can be required of those who enjoy the benefits of the Union for the enjoyment of any industrial-property rights.

The provisions of the legislation of each of the contracting countries relative to judicial and administrative proceedings and to competent authority, as well as to the choice of domicile or the appointment of an authorized agent, which may be required by the laws on industrial property are expressly reserved.

ARTICLE 3

Nationals of countries not forming part of the Union who are domiciled or who have real and effective industrial or commercial establishments in the territory of any of the countries of the Union, shall be assimilated to the nationals of the contracting countries.

ARTICLE 4

(a) Any person who has duly applied for a patent, the registration of a utility model, industrial design or model, or trade-mark in one of the contracting countries, or his legal representative or assignee, shall enjoy, subject to the rights of third parties, for the

purposes of registration in other countries, a right of priority during the periods hereinafter stated.

(b) Consequently, subsequent filing in any of the other countries of the Union before the expiration of these periods shall not be invalidated through any acts accomplished in the interval, either, particularly, by another filing, by publication of the invention, or by the working of it, by the sale of copies of the design or model, or by use of the trade-mark.

(c) The above-mentioned periods of priority shall be twelve months for patents and utility models, and six months for industrial designs and models and trade-marks.

These periods shall start from the date of filing of the first application in a country of the Union; the day of filing is not counted in this period.

If the last day of the period is a *dies non* in the country where protection is claimed, the period shall be extended until the next working day.

(d) Any person desiring to take advantage of the priority of a previous application must make a declaration giving particulars as to the date of such application and the country in which it was made. Each country will determine for itself the latest date at which such declaration must be made.

The particulars referred to shall be stated in the publications issued by the competent authority, and in particular in the patents issued and the specifications relating thereto.

The contracting countries may require any person making a declaration of priority to produce a copy of the application (with the specification, drawings, etc.) previously made. The copy, certified as correct by the authority receiving this demand, shall not require any legal authentication, and in any circumstances can be filed at any time within the period of three months from the lodging of the last application. They may also require that the declaration shall be accompanied by a certificate by the proper authority showing the date of application, and also by a translation.

No other formalities may be required for the declaration of priority at the time of application. Each of the contracting countries shall decide for itself what consequences shall follow the omission of the formalities prescribed by the present article, but such consequence shall in no case be more serious than the loss of the right of priority.

At later stages, further proof in support of the application may be required.

(e) Where an application is filed in a country for the registration of an industrial design or model by virtue of a right of priority based

on the registration of a utility model, the period of priority shall not exceed that fixed for industrial designs and models.

Furthermore, it is allowable to deposit in a country a utility model by virtue of rights of priority based on a patent application, and vice versa.

(f) If an application for a patent contains claims for multiple priority, or if examination discloses that the application contains more than one invention, the competent authorities must at least allow the applicant to divide it, subject to the conditions of internal legislation, reserving as date of each divisional application the date of the initial application and, if there is occasion for it, the benefits of the right of priority.

ARTICLE 4 BIS

Patents applied for in the various contracting countries by nationals of the Union shall be independent of the patents obtained for the same invention in other countries, whether such countries be or be not parties to the Union.

This stipulation must receive a strict interpretation; in particular, it shall be understood to mean that patents applied for during the period of priority are independent, both as regards the grounds for refusal and for revocation, and also as regards their normal duration.

This stipulation shall apply to all patents already existing at the time when it shall come into effect.

The same stipulation shall apply, in the case of the accession of new countries, to patents in existence, either on one side or the other, at the time of accession.

ARTICLE 5

The introduction by the patentee into the country where the patent has been granted of objects manufactured in any of the countries of the Union shall not entail forfeiture.

Nevertheless, each of the contracting countries shall have the right to take the necessary legislative measures to prevent the abuses which might result from the exercise of the exclusive rights conferred by the patent; for example, failure to use.

These measures will only provide for the revocation of the patent if the granting of compulsory licenses shall not suffice to prevent such abuses.

In all cases the patent will not be subject to such measures before the expiration of at least three years from the date of its grant and if the patentee produces just excuses.

The protection of designs and industrial models cannot be liable to cancellation by reason of the introduction of objects corresponding to those protected.

Articles shall not be required to bear any indication of registration for recognition of this right.

If in a country the use of a registered trade-mark is compulsory, the registration cannot be canceled until after a reasonable period, and only then if those interested cannot justify the causes of their inaction.

ARTICLE 5 BIS

A period of grace of at least three months will be granted for the payment of taxes prescribed for the maintenance of industrial-property rights, together with a surcharge if the internal legislation of a country so provides.

For patents of invention the contracting countries undertake moreover either to prolong that extended period to six months at least, or to provide for the restoration of a patent which has lapsed owing to the nonpayment of fees, it being understood that these provisions are subject to the conditions prescribed by internal legislation.

ARTICLE 5 TER

In each of the contracting countries the following shall not be considered as infringing the rights of the patentee:

(1) The use on board ships of other countries of the Union of anything the subject matter of his patent in the body of the ship, in the machinery, tackle, apparatus, and other accessories when such ships enter temporarily or accidentally the waters of the country, provided that such thing is employed there exclusively for the needs of the vessel.

(2) The use of anything the subject matter of the patent in the construction of or functioning of the engines of locomotion for air or land of the other countries of the Union, or of the accessories of these engines, when these enter the country temporarily or accidentally.

ARTICLE 6

Every trade-mark duly registered in the country of origin shall be admitted for registration and protected in the form originally registered in the other countries of the Union.

Nevertheless, the following marks may be refused or canceled:

(1) Those which are of such a nature as to prejudice rights acquired by third parties in the country in which protection is applied for.

(2) Those which have no distinctive character, or which consist exclusively of signs or indications which serve in trade to designate the kind, quality, quantity, destination, value, place of origin, or date of production, or which have become customary in the current language, or in the bona fide and unquestioned usages of the trade of the country in which protection is sought.

In arriving at a decision as to the distinctiveness of the character of a mark, all the circumstances of the case must be taken into account, and in particular the length of time that such a mark has been in use.

(3) Those which are contrary to morality or public order.

It is to be understood that a mark cannot be considered as contrary to public order for the sole reason that it does not conform to some legislative requirement concerning trade-marks, except in circumstances where this requirement itself relates to public order.

The following shall be deemed the country of origin :

The country of the Union where the applicant has an actual and genuine industrial or commercial establishment; and if he has not such an establishment, the country of the Union where he has his domicile; and if he has not a domicile in the Union, the country of his nationality in the case where he is under the jurisdiction of a country of the Union.

In no case shall the renewal of the registration of a trade-mark in the country of origin involve the obligation of renewal of the registration of the mark in other countries of the Union in which the mark has been registered.

The benefits of priority shall subsist in trade-mark applications filed in the period allowed by article 4, even when the registration in the country of origin is only completed after the expiration of such period.

The provisions of paragraph 1 do not preclude the right of requiring from an applicant a certificate, in due form, as to the registration of his mark, issued by the competent authority of the country of origin, but no legal authentication of such certificate shall be required.

ARTICLE 6 BIS

The contracting countries undertake to refuse or invalidate, either administratively if their legislation so permits, or at the request of an interested party, the registration of a trade-mark which constitutes a reproduction or imitation liable to create confusion with a trade-mark considered by the competent authority of the country of registration to be well known there as being already a mark of a national of another contracting country and used for products of the same or a similar kind.

A period of at least three years must be granted in order to claim the cancellation of these marks. The period shall start from the date of registration of the mark.

No period shall be established to claim the cancellation of fraudulently registered marks.

ARTICLE 6 TER

The contracting countries undertake to refuse or invalidate registration, and to prohibit by appropriate means the use, failing authorization from the competent authority, whether as trade-mark or as components of such, of all coats of arms, flags, and other state emblems of contracting countries, official control and guarantee signs and stamps adopted by them, and all imitation from an heraldic point of view.

The prohibition of official control and guarantee signs and stamps shall apply only in cases where marks which comprise them are intended to be used on merchandise of the same or a similar nature.

For the application of these provisions the contracting countries agree to communicate reciprocally, through the intermediary of the International Bureau of Berne, the list of state emblems and official control and guarantee signs and stamps which they desire, or will desire, to place, wholly or with certain reservations, under the protection of the present article, as well as all subsequent modifications added to the list. Each contracting country shall place the communicated list at the disposal of the public in due course.

Each contracting country may, within a period of twelve months from the receipt of the notification, and through the intermediary of the International Bureau of Berne, transmit its possible objections to any other country concerned.

For state emblems which are well known the provisions of paragraph 1 shall be applicable only to marks registered after the signature of this convention.

For state emblems which are not well known, and for official signs and stamps, these provisions shall be applicable only to marks registered more than two months after the receipt of the notification provided for in paragraph 3.

In the case of bad faith, countries shall have the right to cancel even the marks registered before the signature of the present convention and embodying state emblems, signs, and stamps.

Nationals of each country who are authorized to make use of state emblems, and signs and stamps of their country, may use them even if there be a similarity with those of another country.

The contracting countries undertake to prohibit the unauthorized use in trade of state coats of arms of other contracting countries

when such use would be liable to cause confusion as to the origin of the product.

The preceding provisions will not prevent the countries' exercising the right to refuse or to invalidate, by the application of No. 3 of paragraph 2 of article 6, marks containing without authority coats of arms, flags, decorations, and other state emblems or official signs and stamps adopted by a country of the Union.

ARTICLE 7

The nature of the goods on which the trade-mark is to be used can in no case form an obstacle to the registration of the trade-mark.

ARTICLE 7 BIS

The contracting countries undertake to allow the filing of, and to protect, trade-marks belonging to associations the existence of which is not contrary to the law of the country of origin, even if such associations do not possess an industrial or commercial establishment.

Nevertheless, each country shall be the sole judge of the particular conditions on which an association may be allowed to obtain protection for its marks.

ARTICLE 8

A trade name shall be protected in all the countries of the Union without the obligation of filing or registration, whether or not it form part of a trade-mark.

ARTICLE 9

All goods illegally bearing a trade-mark or trade name shall be seized on importation into those countries of the Union where this mark or name has a right to legal protection.

Seizure shall be effected equally in the country where the mark or name was illegally applied, or in the country to which the article bearing it has been imported.

The seizure shall take place at the request either of the proper Government department or of any other competent authority, or of any interested party or actual or legal person, in conformity with the domestic law of each country.

The authorities are not bound to effect the seizure in transit.

If the law of a country does not admit of seizure on importation, such seizure shall be replaced by prohibition of importation or by seizure within such country.

If the law of any country does not admit either of seizure upon importation, or of prohibition of importation, or of seizure within the country, and until such time as this legislation shall be accord-

ingly modified, these measures will be replaced by the remedies assured in such cases to nationals by the law of such country.

ARTICLE 10

The stipulations of the preceding article shall be applicable to every product which may falsely bear as indication of origin the name of a specified locality or country when such indication shall be joined to a trade name of a fictitious character or used with the intent to defraud.

Any producer, manufacturer, or trader engaged in the production, manufacture, or trade of such goods and established either in the locality falsely designated as the place of origin, or in the district where the locality is situated, or in the country falsely designated, shall be deemed in all cases a party concerned, whether such person be actual or legal.

ARTICLE 10 BIS

The contracting countries are bound to assure to nationals of the Union an effective protection against unfair competition.

Every act of competition contrary to honest practice in industrial or commercial matters constitutes an act of unfair competition.

The following particularly are to be forbidden:

(1) All acts whatsoever of a nature to create confusion by no matter what means with the goods of a competitor.

(2) False allegations, in the course of trade, of a nature to discredit the goods of a competitor.

ARTICLE 10 TER

The contracting countries undertake to assure to the nationals of other countries of the Union appropriate legal remedies to repress effectively all acts set forth in articles 9, 10, and 10 *bis*.

They undertake, moreover, to provide measures to permit syndicates and associations representing the industry or the trade interested, and of which the existence is not contrary to the laws of their country, to take action in justice or before the administrative authorities, in view of the repression of the acts set forth in articles 9, 10, and 10 *bis*, so far as the law of the country in which protection is claimed permits it to the syndicates and associations of that country.

ARTICLE 11

The contracting countries shall, in conformity with the legislation of each country, accord temporary protection to patentable inventions, to utility models, and to industrial designs or models, as well

as to trade-marks in respect of products which shall be exhibited at official, or officially recognized, international exhibitions held in the territory of one of them.

This temporary protection shall not prolong the periods provided by article 4. If later the right of priority is sought, the competent authority of each country may date the period from the date of the introduction of the product into the exhibition.

Each country may require, as proof of the identity of the object exhibited, and of the date of the introduction, such proofs as it may consider necessary.

ARTICLE 12

Each of the contracting countries agrees to establish a special Government service for industrial property, and a central office for communication to the public of patents, utility models, industrial designs or models, and trade-marks.

This service shall publish an official periodical paper.

ARTICLE 13

The international office, established at Berne under the name of International Bureau for the Protection of Industrial Property, is placed under the high authority of the Government of the Swiss Confederation, which is to regulate its organization and supervise its working.

The official language of the International Bureau is French.

The International Bureau centralizes information of every kind relating to the protection of industrial property and collates and publishes it. It interests itself in all matters of common utility to the Union and edits, with the help of documents supplied to it by the various Administrations, a periodical paper in the French language, dealing with questions regarding the object of the Union.

The numbers of this paper, as well as the documents published by the International Bureau, are circulated among the Administrations of the countries of the Union in the proportion of the number of contributing units as mentioned below. Such further copies as may be desired, either by the said Administrations or by societies or private persons, will be paid for separately.

The International Bureau shall at all times hold itself at the service of members of the Union, in order to supply them with any special information they may need on questions relating to the international system of industrial property. The Director of the International Bureau will furnish an annual report on its working, which shall be communicated to all the members of the Union.

The expenses of the International Bureau will be borne by the contracting countries in common. Unless fresh sanction is given, they must not exceed the sum of 120,000 Swiss francs per annum. This sum may be increased in cases of necessity by a unanimous decision of one of the conferences provided for by article 14.

To determine the part which each country should contribute to this total of expenses the contracting countries and those which may afterwards join the Union shall be divided into six classes, each contributing in the proportion of a certain number of units, namely:

First	class	. . . . .	25	units
Second	"	. . . . .	20	"
Third	"	. . . . .	15	"
Fourth	"	. . . . .	10	"
Fifth	"	. . . . .	5	"
Sixth	"	. . . . .	3	"

These coefficients will be multiplied by the number of countries in each class, and the sum of the result thus obtained will supply the number of units by which the total expense has to be divided. The quotient will give the amount of the unit of expense.

Each of the contracting countries will designate, at the time of its accession, the class in which it wishes to be placed.

The Government of the Swiss Confederation is to superintend the expenses of the International Bureau, to advance the necessary funds, and to render an annual account which will be communicated to all the other Administrations.

ARTICLE 14

The present convention shall be submitted to periodical revisions with a view to the introduction of amendments calculated to improve the system of the Union.

For this purpose, conferences shall be held successively in one of the contracting countries between the delegates of the said countries.

The Administration of the country in which the conference is to be held will make preparation for the transaction of that conference, with the assistance of the International Bureau.

The Director of the International Bureau will be present at the meetings of the conferences, and will take part in the discussions, but without the privilege of voting.

ARTICLE 15

It is agreed that the contracting countries respectively reserve to themselves the right to make separately, as between themselves, special arrangements for the protection of industrial property, in so far as such arrangements do not contravene the provisions of the present convention.

ARTICLE 16

The countries which have not taken part in the present convention shall be permitted to adhere to it upon their request.

The accession shall be notified through the diplomatic channel to the Government of the Swiss Confederation, and by the latter to all the other Governments.

It shall entail, as a matter of right, accession to all the classes, as well as admission to all the advantages, stipulated in the present convention, and shall take effect one month after the dispatch of the notification by the Government of the Swiss Confederation to the other countries of the Union, unless a subsequent date has been indicated by the acceding country.

ARTICLE 16 BIS

The contracting countries have the right of acceding to the present convention at any time on behalf of their colonies, possessions, dependencies, and protectorates, or territories administrated by virtue of a mandate from the League of Nations, or any of them.

For this purpose they may either make a general declaration, including all their colonies, possessions, dependencies, and protectorates, and the territories referred to in paragraph 1, in the accession, or may expressly name those included, or may confine themselves to indicating those which are excluded therefrom.

This declaration shall be notified in writing to the Government of the Swiss Confederation and by the latter to all the other Governments.

Under the same conditions, the contracting countries may denounce the convention on behalf of their colonies, possessions, dependencies, and protectorates, or for the territories referred to in paragraph 1, or for any of them.

ARTICLE 17

The execution of the reciprocal engagements contained in the present convention is subordinated, in so far as necessary, to the observance of the formalities and rules established by the constitutional laws of those of the contracting countries which are bound to procure the application of the same, which they engage to do with as little delay as possible.

ARTICLE 17 BIS

The convention shall remain in force for an unlimited time, till the expiration of one year from the date of its denunciation.

This denunciation shall be addressed to the Government of the Swiss Confederation. It shall affect only the denouncing country,

the convention remaining in operation as regards the other contracting countries.

ARTICLE 18

The present act shall be ratified and the ratifications deposited at The Hague not later than the 1st of May, 1928. It shall come into force, between the countries which will have ratified it, one month after such date. However, if before May 1, 1928, it should be ratified by at least six countries, it will come into force between those countries one month after the Government of the Swiss Confederation has notified them of the filing of the sixth ratification, and for the countries which should subsequently ratify, one month after the notification of each of these ratifications.

This act shall replace, as regards relations between the countries which ratify it, the convention of the Union of Paris of 1883, revised at Washington June 2, 1911, and its final protocol, which shall remain in force as regards relations with countries which have not ratified the present act.

ARTICLE 19

The present act shall be signed in a single copy, which shall be deposited in the archives of the Government of the Netherlands. A certified copy shall be forwarded by the latter to each of the Governments of the contracting countries.

In witness whereof, the respective plenipotentiaries have signed the present act.

Done at The Hague, in a single copy, the 6th day of November, 1925.

For Germany:

VIETINGHOFF
v. SPECHT
KLAUER
ALBERT OSTERRIETH

For Australia:

C. V. WATSON

For Austria:

DR. CARL DUSCHANEK
DR. HANS FORTWÄNGLER

For Belgium:

CAPITAINE
LOUIS ANDRÉ
THOMAS BRAUN
D. COPPIETERS

For the United States of
Brazil:

J. A. BARBOZA CARNEIRO
CARLOS AMERICO BARBOSA DE
OLIVEIRA

For Canada:	FREDERICK H. PALMER
For Cuba:	R. DE LA TORRE
For Denmark:	N. J. EHRENREICH HANSEN
For the Free City of Danzig:	ST. KOŹMIŃSKI
For the Dominican Republic:	C. G. DE HASETH CZ.
For Spain:	SANTIAGO MENDEZ DE VIGO FERNANDO CABELLO LAPIEDRA JOSÉ GARCIA MONGE
For Estonia:	O. AARMANN
For the United States of America:	THOMAS E. ROBERTSON WALLACE R. LANE JO. BAILY BROWN
For Finland:	YRJÖ SAASTAMOINEN
For France:	CH. DE MARCILLY MARCEL PLAISANT CH. DROUETS GEORGES MAILLARD
For Great Britain and Northern Ireland:	H. LLEWELLYN SMITH A. J. MARTIN A. BALFOUR
For Hungary:	ELEMÉR DE POMPÉRY
For the Irish Free State:	G. O'KELLY DE GALLAGH
For Italy:	DOMENICO BARONE LETTERIO LABOCCETTA MARIO GHIRON
For Japan:	S. SAKIKAWA N. ITO
For Morocco:	CH. DE MARCILLY
For the United Mexican States:	JULIO POULAT
For Norway:	B. WYLLER
For the Netherlands:	J. ALINGH PRINS BIJLEVELD DIJCKMEESTER
For Poland:	ST. KOŹMIŃSKI FRÉDÉRIC ZOLL
For Portugal:	BANDEIRA
For the Kingdom of the Serbs, Croats and Slovenes:	DR. YANKO CHOUMANE MIHAÏLO PRÉDITCH

For Sweden:	E. O. J. BJÖRKLUND H. HJERTÉN AXEL HASSELROT
For Switzerland:	A. DE PURY W. KRAFT
For Syria and Greater Lebanon:	CH. DE MARCILLY
For Czechoslovakia:	BARÁČEK Prof. Dr. KAREL HERMANN- OTAVSKÝ Engineer BOHUSLAV PAVLOU- SEK
For Tunis:	CH. DE MARCILLY
For Turkey:	

**ACCEPTANCE BY THE UNITED STATES OF INVITATION TO ATTEND
THE THIRD INTERNATIONAL TELEGRAPH CONFERENCE AT PARIS
IN 1925¹⁰**

574.D3/121

The Secretary of State to the French Ambassador (Daeschner)

WASHINGTON, July 17, 1925.

EXCELLENCY: I have the honor to acknowledge the receipt of your note dated May 14, 1925,¹ with which you were good enough to send me a memorandum setting forth a list of the principal questions concerning wireless telegraphy that it is proposed to discuss at the International Telegraph Conference at Paris beginning September 1, 1925. You state that you are informed by the Minister for Foreign Affairs of your Government that these questions are set forth in a book published by the International Telegraph Bureau at Berne¹² and that a copy of it has been delivered to the Minister of the United States to Switzerland for transmission to this Government. You inquire whether this Government agrees not to call the International Radiotelegraph Conference¹³ until the spring of 1926 and what the program of that Conference will be.

I have referred these matters to the other interested Departments of this Government for their consideration and I now desire to set

¹⁰ The first international telegraph conference was held at St. Petersburg in 1875, the second at Lisbon in 1908; see *Documents de la Conférence Télégraphique Internationale de Lisbonne* (Berne, Bureau International de l'Union Télégraphique, 1909).

¹ Not printed.

¹² *Documents de la Conférence Télégraphique Internationale de Paris, 1925* (Berne, Bureau International de l'Union Télégraphique, 1925), tome I.

¹³ See pp. 297 ff.

forth the considered views of this Government regarding these subjects.

Conferences of parties to the International Telegraph Convention are held pursuant to the provisions of Article 15 of the Telegraph Convention, which reads as follows:

"The Tariffs and Regulations provided for by Articles 10 and 13 are annexed to the present Convention. They possess the same authority and come into operation at the same time as the Convention.

"They will be subject to revisions, at which all adhering States will have the right to be represented.

"With this object, Administrative Conferences will take place periodically, each Conference fixing the time and place of the next meeting."^{1c}

The provision for conferences of parties to the International Radiotelegraph Convention is found in Article 11 of that Convention, which reads in part as follows:

". . . Conferences of plenipotentiaries having power to modify the Convention and the Regulations, shall take place from time to time; each conference shall fix the time and place of the next meeting."²

It will be observed that the Telegraph Convention provides that the "Tariffs and Regulations" shall be revised at the administrative conferences, whereas the International Radiotelegraph Convention provides for the revision of the "Convention and the Regulations". It is, therefore, evident that it was intended that the periodic conferences to revise the Radiotelegraph Convention and Regulations annexed to it might add to the subjects which are dealt with in the present Convention.

The limitations upon the work of the Telegraph Conference were recognized by the International Telegraph Bureau at Berne when it issued its circular telegram No. 99/12 dated July 12, 1924, requesting Governments to submit their proposals. This telegram reads as follows:

"French Service reports that as unanimity could not be secured for meeting of mixed conference about which the offices were told in Circular No. 744, of June 12, 1922, the French Government invites countries in the Telegraphic Union to an International Telegraphic Conference at Paris in the spring of 1925. The exact date of opening will be given later. The International Bureau, therefore, begs the several services to kindly forward to it within four months their propositions for that conference based exclusively on the telegraph regulations now in force. Circular letter follows." (Underscoring added.)

^{1c} *Documents de la Conférence Télégraphique Internationale de Lisbonne*, pp. 15, 121.

² *Foreign Relations*, 1913, p. 1377.

Also the Bureau's Circular Letter No. 766, dated July 15, 1924, reads in part as follows:

" . . . It now appears from a communication of the French Service, of the eighth instant, that the French Government which had sought the consent of the Governments interested, concerning the expediency of calling the earliest possible Conference of electric communications, which was to revise the telegraph and radio Conventions and Regulations now in force in Paris, was unable, although the proposition was well received, to secure unanimous consent.

"Under the circumstances it (The French Government) thought it best to adhere to the decisions arrived at in the Telegraphic Conference of Lisbon in 1908, and to call the International Telegraphic Conference which should have taken place in 1915 to a meeting in Paris in the spring of 1925.

"Therefore, the French Government instructed its diplomatic officers abroad to invite the countries in the Telegraphic Union to send representatives to the said Conference, the date of the opening of which will be later announced.

"By reason of that call, on the one hand, and in accordance with the provisions of paragraph 11 of Article LXXXIV of the Lisbon Regulations on the other hand, the International Bureau has the honor to beg you jointly with the French Service, kindly to forward to it, up to and not later than November 15, next, the additions or modifications that your office would like to introduce in the International Service Regulations (Revised at Lisbon) and the tariffs now in force. (Underscoring added).³

"With a view to preventing any misunderstanding we lay stress on the fact that the propositions to be brought before the Conference, through the International Bureau, shall not, as stated in the circular above mentioned, No. 744, rest on documents already mailed to the Offices dealing with the drafts worked out by the Preliminary Conference at Washington."⁴

In a note dated January 15, 1925, addressed to Mr. Hughes,⁵ Mr. Jusserand referred to the fact that at the last conference of the Telegraphic Union held in Lisbon in 1908 it was decided that the next Telegraph Conference would meet in Paris, and that at the last conference of the parties to the International Radiotelegraph Convention, held in London in 1912, it was agreed that the next International Radiotelegraph Conference would be held at Washington. Mr. Jusserand then referred to the proposal that one conference should be held to deal with all the problems concerning electrical communications and stated that the French Government had caused the Governments to be approached as to the expediency

³ Omission which follows indicated in original note.

⁴ Convened Oct. 8, 1920; *Foreign Relations*, 1920, vol. I, p. 132.

⁵ Not printed.

of calling as soon as possible a universal conference on electrical communications in Paris but that, although the proposition was generally well received, unanimous consent to it could not be obtained. Mr. Jusserand stated that the French Government therefore believed that it was advisable to adhere to the decisions of the conference at Lisbon in 1908 and of the Conference at London in 1912 and had instructed him to inform Mr. Hughes that France would be glad if the United States would take part in the Conference of the Telegraphic Union which was scheduled to meet in Paris in the spring of 1925. In the circumstances this Government took the necessary steps with a view to holding the International Radiotelegraph Conference at Washington and, on February 16, 1925, Mr. Hughes instructed the American Ambassador at Paris⁶ to inquire whether some time in the autumn would be agreeable to your Government for holding the Radiotelegraph Conference at Washington in accordance with the decision reached at London in 1912. On February 26, 1925, Mr. Herrick conferred with a representative of the Foreign Office regarding arrangements for the Radiotelegraphic Conference and he was then informed that the Telegraph Conference had been postponed until September and that, as it was understood that the purpose of the conference at Washington was the establishment of a much broader convention, information was desired regarding the exact program of this Government so that it could be studied. The Foreign Office expressed the opinion that, in the circumstances, your Government would probably be prevented from being ready to attend the Radiotelegraph Conference at Washington in the autumn.⁷ On March 4, 1925, the Congress of the United States passed an Act, which was approved by the President, authorizing this Government to make provision for holding the International Radiotelegraph Conference at Washington.⁸ Two copies of this Act of Congress are enclosed for your information.

In your note dated March 23, 1925,⁹ you referred to the plan of this Government to call the International Radiotelegraph Conference at Washington and suggested that, as the date for the opening of the International Telegraph Conference had been postponed until September 1, 1925, it would be advisable to postpone the date of the meeting of the International Radiotelegraph Conference to the spring of 1926. In response to requests in my notes dated March 24, and April 18, 1925,⁹ for a statement setting forth the subjects which it was proposed to take up for discussion at the forthcoming conference

⁶ Instruction not printed.

⁷ Correspondence not printed.

⁸ 43 Stat. 1340.

⁹ Not printed.

at Paris, you were good enough to refer me, in your note dated May 14, 1925,¹⁰ to the document issued by the International Telegraph Bureau at Berne and stated that the five proposals listed in the enclosure with your note are set forth in the document. Copies of the document, which consists of 437 printed pages of technical matter, were received by the American Legation at Berne and forwarded to me on April 18, 1925.¹⁰

It seems that the Bureau considered it advisable to print all the statements for proposals submitted by the various administrations, even though they did not relate to the Telegraph Regulations or Tariffs. However, the fact that the International Telegraph Bureau considered that these proposals were not subjects for action at the Telegraph Conference is evidenced by the following statement on the title page of the Document:

"NOTE: Although, as indicated by the telegram-circular No. 99/12 of July 12, 1924, and by circular No. 766 of July 15, 1924, the international office, according to instructions received from the French Government, solicited from the offices of the Union, only motions concerning the international service regulation (The Lisbon Revision), certain governments have sent in motions referring to the Convention of St. Petersburg."¹¹

The International Telegraph Bureau also printed the following preliminary statement in connection with Parts III and IV of the Document:

"Certain Administrations have proposed to incorporate in various articles of the Regulations, provisions relating to the exchange of messages by radio. Therefore, these suggestions appear in their respective places in this part of the present Document. Certain other Administrations, however, have grouped these new provisions and proposed to make Special Articles of them. These new Articles have been printed in the IVth Part of this Document."

As the circular telegram dated July 12, 1924, issued by the International Telegraph Bureau at Berne, pointed out that the proposals to be submitted by the respective administrations for consideration at the International Telegraph Conference at Paris were to be "based exclusively on the telegraph regulations now in force" and as the circular letter dated July 15, 1924, issued by the Bureau jointly with the French Administration, requested the administrations to forward "the additions or modifications that your office would like to introduce in the International Service Regulations (Revised at Lisbon) and the tariffs now in force", it is surprising to find that the administrations concerned have submitted a large number of

¹⁰ Not printed.

¹¹ The Convention of St. Petersburg (1875) is printed in *Documents de la Conférence Télégraphique Internationale de Lisbonne*, p. 1.

propositions dealing with the regulation of communication by means of radio and that the Berne Bureau printed these proposals relating to radio in the Document.

I feel that it is of great importance to emphasize the fact that, in determining what subjects shall be discussed at the conferences, care should be exercised to have the discussions limited to subjects that properly fall within the scope of the conference. At present there are two wholly independent conventions, each dealing with a separate general subject, first, the Telegraph Convention, dealing with communication by means of wire, and, second, the Radiotelegraph Convention, dealing with communication by means of radio. Since the Paris Conference is to be held first, I am strongly of the opinion that it should not concern itself with subjects which properly would come before the Radiotelegraph Conference to be held at Washington. And in as much as your Government has agreed to the holding of the International Radiotelegraph Conference at Washington, I have no doubt that your Government is of the same opinion that radio matters should be taken up at the Washington Conference and that the printing of these proposals relating to radio does not involve their consideration at the Paris Conference.

From such examination as it has been possible to make of the Document issued by the International Telegraph Bureau at Berne, it seems clear that if the Conference at Paris takes up the consideration of all of the subject matter contained in the above mentioned Document it will take into consideration a great many matters which, in fact, relate only to the use of radio and, in so doing, will invade the field that should properly be reserved for study and discussion at the Washington Conference. This observation applies particularly to Part IV of the Document.

A study of the five questions which you submitted makes this fact clearer and, with the exception of the fourth question, I beg to suggest that your Government should, in the light of the foregoing comments, consider carefully the propriety of taking them up at the Telegraph Conference at Paris.

The first proposal stated in the enclosure with your note is that the Paris Conference consider the advisability of the use of high efficiency [*speed*] apparatus on radiotelegraphic communications having a large business [*considerable traffic*]¹² to dispose of. Apparently this refers to the installation of automatic sending machines, perforators, direct writers, printers and similar equipment in the large radio stations. If this understanding is correct, it would appear that the installation of such apparatus is purely

¹² Corrections supplied from a revised translation of Mr. Daeschner's note of May 14 (file No. 574.D3/121).

a wireless telegraph matter for consideration at the Washington Conference and having no direct connection, either as a matter of regulation or in its technical aspects, with the revision of the Regulations annexed to the Telegraph Convention.

Similarly, with respect to the proposal that the Paris Conference discuss the question of the fixing of radiotelegraph rates between fixed points, I wish to point out that consideration of rates on messages handled between fixed points by radiotelegraph would not fall properly within a conference to consider the revision of the Regulations annexed to the International Telegraph Convention and the Tables of International Telegraph Tariffs established under Article XV of the Convention and Service Regulation XXIV. If consideration of this question is proposed, it is believed that it should be dealt with at the Radiotelegraph Conference at Washington.

With regard to the proposal that the Paris Conference shall consider changes to be made in the transmitting regulations to make the rules applicable to wireless and wire communication uniform, it would seem that this proposal should be understood to apply to those articles of the International Telegraph Convention and Regulations which are incorporated in the International Radiotelegraph Convention and Regulations by Article 17 of the Radiotelegraph Convention and Article L of the Regulations annexed to it. These articles read as follows:

ARTICLE 17 OF CONVENTION

"The provisions of Articles 1, 2, 3, 5, 6, 7, 8, 11, 12 and 17 of the International Telegraph Convention of St. Petersburg of July 10-22, 1875, shall be applicable to international radiotelegraphy."

ARTICLE L OF REGULATIONS

"The provisions of the International Telegraph Regulations shall be applicable analogously to radio correspondence in so far as they are not contrary to the provisions of the present regulations. The following provisions of the Telegraph Regulations, in particular, shall be applicable to radio correspondence: Article XXVII, paragraphs 3 to 6, relating to the collection of charges; Articles XXVI and XLI relating to the indication of the route to be followed; Article LXXV, paragraph 1, LXXVIII, paragraphs 2 to 4, and LXXIX, paragraphs 2 and 4, relating to the preparation of accounts. However:—(1) The period of six months provided by paragraph 2 of Article LXXIX of the Telegraph Regulations for the verification of accounts shall be extended to nine months in the case of radiograms; (2) The provisions of Article XVI, paragraph 2, shall not be considered as authorizing gratuitous transmission, through radio stations, of service telegrams relating exclusively to the telegraph service, nor the free transmission over the telegraph lines of service telegrams relating exclusively to the radio service; (3) The provisions of Article LXXIX, paragraphs 3 and 5, shall not be applicable to radio accounts. As regards the application of the provisions of the Telegraph Regulations, coastal stations shall be considered as offices

of transit except when the Radio Regulations expressly stipulate that such stations shall be considered as offices of origin or of destination."

Although it is recognized that, in the discussion of the Articles of the Telegraph Convention and the Regulations mentioned in the above quoted articles, it would be very desirable to consider their effect on communication by radio, I desire to make it clear that I understand that it is not contemplated that changes in the Regulations annexed to the Radiotelegraph Convention will be brought up for discussion at the Paris Conference. The transmitting regulations for radio appear to be a subject of especial interest to the representatives of the Governments who will participate in the Washington Conference. In the interest of uniformity it is suggested that the Telegraph Conference at Paris might desire to consider communication by radio to the extent that any transmitting regulations for wire should be so framed as not to preclude the possibility of their adoption by the Washington Conference and thus being made applicable to radio should the Radiotelegraph Conference deem it desirable to do so.

Respecting the fourth proposal to discuss at the Paris Conference the use of the word "fil" on European telegrams when the sender does not wish the message forwarded by wireless, I am of the opinion that this matter is a proper subject for consideration at the Paris Conference and, if the action taken on the subject is limited to the European regime, it would not be of direct concern to the United States.

In regard to the fifth proposal that the Conference at Paris shall consider the drafting of regulations respecting telegrams without address sent by radio, I desire to make it clear that, if this statement refers to the broadcasting of information by radio, I am of the opinion that the regulation of this new means of communication is purely a radio matter with which it would seem that a telegraph conference should not properly concern itself. The new problems raised by this new means of communication seem to be closely related to the use of radio and I believe it would be more appropriate to consider this subject at the Washington Conference.

Respecting your inquiry whether the United States would agree to the postponement of the Radiotelegraph Conference until the spring of 1926, I am pleased to state that this Government will be happy to make the necessary arrangements to hold the International Radiotelegraph Conference at Washington in the spring of 1926, and formal invitations for this Conference will be issued at an early date.¹³

¹³ Issued on Aug. 18, 1925; see telegram No. 263, Aug. 18, to the Ambassador in Great Britain, p. 297.

The agenda for the Washington Conference is being studied and, although I cannot at this time furnish you a detailed statement of the subjects that I believe should be considered at the Conference, it is believed that, in addition to the revision of the present Convention and Regulations, the Conference should consider the transmission by radiotelegraph of communications between fixed points, the broadcasting of communications, and communications by radiotelephony, and other related subjects which the developments of the art since 1912 make it advisable to consider.

In view of the considerations set forth in this note, I confidently encourage the hope that you will find it possible at an early date to assure me that, as I have suggested above, questions relating to radio will not be considered at the Paris Conference so that I may be in a position promptly to inform the interested agencies of this Government with a view to making the necessary arrangements looking to the participation of the United States in the Conference at Paris.

Accept [etc.]

FRANK B. KELLOGG

574.D3/173

The Acting Secretary of State to the French Ambassador (Daeschner)

WASHINGTON, August 17, 1925.

EXCELLENCY: Referring to Mr. Jusserand's note dated January 15, 1925,¹⁴ inviting this Government to take part in the International Telegraph Conference at Paris, and to your note dated March 23, 1925,¹⁴ stating that the date of the Conference had been postponed until September 1, 1925, I have the honor to state that this Government accepts the kind invitation of the French Government and the following delegates and technical advisers have been appointed to attend the conference:

Honorable J. Beaver White of Pennsylvania—Delegate and
Chairman of the American Delegation,
Honorable Wallace H. White, Jr., Member of Congress from
Maine—Delegate,
Major General Charles McK. Saltzman, Chief of the Signal
Corps, United States Army,—Delegate,
Major Joseph O. Mauborgne, United States Army,—Secretary
of the Delegation and Technical Adviser,
Mr. William D. Terrell, Chief Supervisor of Radio of the United
States, Department of Commerce,—Technical Adviser,
Mr. Harry H. Kelly, Attached to the Office of the Bureau of
Foreign and Domestic Commerce at Paris—Technical
Adviser,
Lieutenant Commander Jules James, Assistant Naval Attaché,
American Embassy Paris,—Technical Adviser,

¹⁴ Not printed.

Lieutenant E. M. Webster, United States Coast Guard, Treasury Department,—Technical Adviser.

Mr. R. H. Redmond, European Radio Supervisor, United States Shipping Board, Fleet Corporation,—Technical Adviser.

With the exception of Mr. Kelly, Lieutenant Commander James, and Mr. Redmond, the above named representatives will sail from New York on the Steamship *America* on August 19, 1925, and it is expected that they will arrive at Cherbourg on August 28, next.

In this connection I venture to call your Excellency's attention to the fact that a reply has not as yet been received to Mr. Kellogg's note dated July 17, 1925, regarding the subjects to be considered at the International Telegraph Conference.

Accept [etc.]

JOSEPH C. GREW

574.D3/185

The French Ambassador (Daeschner) to the Secretary of State

[Translation ¹⁵]

WASHINGTON, August 23, 1925.

MR. SECRETARY OF STATE: In your note of July 17 last you were pleased to convey to me some observations which it appeared should be made by the American administration on the list of questions which I had the honor to set forth as constituting the program of the International Telegraph Conference to be held at Paris on September 1, 1925.

In reply, I have been instructed by the Minister for Foreign Affairs to inform Your Excellency that the sole program of the Paris Conference is to consider additions and amendments which the telegraphic office desires to have made in the service regulations and rates in force. There is no question whatsoever of revising or amending the St. Petersburg Convention. The French propositions are confined strictly to that program which forms the subject of Circular No. 766 of the International Bureau of Berne. If certain offices have exceeded those limits, the French Government has no means to prevent them from offering their propositions. It could do no more than point out, while the conference is in session, the limits of the program as outlined and propose, if occasion should arise, that they be referred to the next Radiotelegraph Conference.

As to the Radiotelegraph Conference, the Government of the Republic doubts if it may be called with advantage before the year 1927. The Radiotelegraph Conference will have to examine the propositions to amend or revise the London Convention, not only

¹⁵ Supplied by the editor.

those coming from the American Government but also those which all the adhering powers to the Union have the right to offer.

Each office must be allowed sufficient time to prepare these propositions in order that they may be assembled at the Berne office and submitted to all the offices.

Your Excellency will certainly admit that this procedure cannot but require much time.

Accept [etc.]

E. DAESCHNER

[For the proceedings of the Conference see, *Documents de la Conférence Télégraphique Internationale de Paris, 1925* (Berne, Bureau International de l'Union Télégraphique, 1925).]

EXTENSION OF INVITATIONS TO THE THIRD INTERNATIONAL RADIOTELEGRAPH CONFERENCE AT WASHINGTON IN 1927¹⁶

574.D7/82 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

WASHINGTON, August 18, 1925—4 p. m.

263. This Government is making arrangements to hold Radiotelegraph Conference in Washington in accordance provision made in Act of Congress approved March 4, 1925.¹⁷ You are accordingly instructed to extend an invitation to the Government to which you are accredited, reading in substance as follows:

Article XI of the Convention signed at London on July 5, 1912,¹⁸ provides that each conference shall fix the time and place of the next meeting. It will be recalled that at the close of the Radiotelegraph Conference held in London in July, 1912, the delegates that represented the United States invited the governments to hold the next radiotelegraph conference at Washington. The invitation of the United States was accepted and it was agreed that the next conference should take place at Washington in 1917. Later proposals were made with a view to holding a joint conference of parties to the Telegraph Convention and parties to the Radiotelegraph Convention and a draft for a universal communications union was prepared and circulated. As unanimity could not be obtained for these proposals, the

¹⁶ The First International Radiotelegraph Conference met at Berlin in 1906; see *Foreign Relations*, 1912, pp. 444 ff., and *Documents de la Conférence Radiotélégraphique Internationale de Berlin, 1906*, Publiés par le Département des Posts de l'Empire d'Allemagne (Berlin, 1906). The Second Conference met at London in 1912; see *Foreign Relations*, 1913, pp. 1375 ff. and *Documents de la Conférence Radiotélégraphique Internationale de Londres* (Berne, Bureau International de l'Union Télégraphique, 1913).

¹⁷ 43 Stat. 1340.

¹⁸ *Foreign Relations*, 1913, p. 1375.

French Government has proceeded with arrangements to hold the Telegraph Conference at Paris beginning September 1, 1925.¹⁹

Accordingly the United States has taken the necessary steps for holding the Radiotelegraph Conference and I hereby, pursuant to instructions of my Government, have the honor to extend to you, as one of the parties to the Radiotelegraph Convention, a courteous invitation to participate in a radiotelegraph conference to be held in the spring of 1926 at Washington, the exact date for the holding of the conference to be communicated to you later.

As regards the subjects to be considered at the conference at Washington, I am instructed to refer to the fact that the provisions of the Radiotelegraph Convention signed at London deal with communication between ships and between ship and shore and do not cover many uses of radio which have been developed since 1912. Furthermore, many of the provisions of the 1912 Convention with respect to communication between ships and between ship and shore are not in general practice followed to a considerable extent.

In the circumstances I am instructed to state that the Government of the United States believes that at the forthcoming conference to be held at Washington the following subjects should be taken up for consideration:

1. Revision of the Convention and Regulations signed at London July 5, 1912.

2. Preparation of new articles and modification of present articles of convention and regulations so that they will be applicable to and regulate

- (a) Communication by radio between fixed points;
- (b) Radiotelegraph broadcasting, including press messages;
- (c) Radio telephony, including broadcasting;
- (d) Allocation of frequencies to classes of service, such as fixed stations, mobile stations, broadcasting stations, etc.
- (e) Elimination of interference as far as practicable.
- (f) Distress messages so as to take cognizance of increased uses and classes of service.
- (g) Radio aids to navigation.
- (h) All other international uses of radio.

A more complete program amplifying the statements above made will be forwarded by my Government as soon as possible for your consideration and an expression of your views.

[Here follow instructions to repeat invitation to the American missions in Austria, Belgium, Bulgaria, Czechoslovakia, Free City of Danzig, Denmark, Egypt, Estonia, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Monaco, Morocco, Netherlands, Norway, Poland, Portugal, San Marino, Serbs, Croats and Slovenes, Spain, Sweden, and Switzerland.]²⁰

¹⁹ See *ante*, p. 287.

²⁰ By a telegram dated August 27, the Ambassador was instructed to repeat the invitation to Albania. The invitation was also sent as a circular telegram on August 18 to the American missions in Bolivia, Brazil, Chile, Colombia, Cuba, Guatemala, Mexico, Panama, Peru, Uruguay, and Venezuela.

The invitation was extended *pro forma* to all countries (except Ecuador and Russia) which were then, or before the Conference convened, parties to the

In repeating invitation to mission accredited to government having dominions, mandates, colonies or possessions for which ratification or adherence has been deposited, state that invitation contained in third paragraph should be amended to include these dominions, mandates, colonies and possessions. Set forth in your message repeating the invitation the dominions, mandates, colonies or possessions of each government as stated in your 255, August 15, 11 a. m.²¹

Mail report stating action taken.

KELLOGG

574.D7/106 : Telegram

The Secretary of State to the Chargé in Switzerland (Winslow)

WASHINGTON, September 19, 1925—1 p.m.

80. Department's instruction No. 281, August 25.²¹ Department has ascertained that Telegraph Bureau issued call for proposals prior to Radiotelegraph Conference at London in 1912.²² Department has decided to follow similar procedure in obtaining proposals of various governments for study at Radiotelegraph Conference.

Inform Radiotelegraph Section of International Bureau through appropriate channels that this Government desires to have it proceed in accordance with provisions of Article 13 of Radiotelegraph Convention to obtain the additions or modifications to International Radiotelegraph Convention and Regulations that the Governments desire to have considered at forthcoming conference to be held at Washington in spring of 1926.

Add that as provisions of Radiotelegraph Convention signed at London deal with communication between ships and between ship and shore and do not cover many uses of radio which have been developed since 1912, United States desires to have Bureau invite governments to submit propositions on the following subjects:

[Here follows list of subjects contained in section 2 of the fifth paragraph of the Department's telegram No. 263, August 18, 4 p. m., to the Ambassador in Great Britain, printed *supra*.]

State that British Government has expressed a desire that revision of international code of signals be included in subjects to be con-

Conference of 1912. Invitations were not sent to Ecuador and Russia because those countries did not have governments which were recognized by the United States. At later dates the invitation (without the right to vote) was extended to non-adhering governments and to certain private companies. On September 29, the invitation (without the right to vote) was extended to the Radiotelegraph Section of the International Bureau at Berne.

²¹ Not printed.

²² In this connection, see *International Radiotelegraph Convention of Berlin, 1906, and Propositions for the International Radiotelegraph Conference of London* (Washington, Government Printing Office, 1912).

sidered by a special subcommittee during conference and that draft international code will be forwarded soon. Add that United States believes it would be advantageous to consider this subject during Radiotelegraph Conference and hopes that those governments interested in the code may send representatives qualified to discuss it.

Suggest to Bureau that call for propositions be issued by October 1st and provide that propositions must be submitted not later than February 1st.

KELLOGG

574.D7/116: Telegram

The Chargé in Switzerland (Winslow) to the Secretary of State

BERNE, September 24, 1925—3 p. m.

[Received 5:03 p. m.]

121. Department's 80 September 19, 1 p. m. Director of Radiotelegraph requests information on following points:

1. Should request for proposals be sent to the governments or to their appropriate administrations, the latter procedure having been followed similar previous conferences. He points out that first course would necessitate intermediation of Swiss Government with consequent delay. He assumes that in either case requests for proposals are to be sent to the colonies, protectorates, et cetera, or their appropriate administrations (see enclosure to my despatch 489 August 10)²⁴ of the invited governments.

2. While appreciating inability of the United States to invite Ecuador and Soviet Russia he inquires whether the Department intends to send invitations to Argentine, Persia, Turkey, Iceland and Ireland whose appropriate administrations correspond with the bureau and contribute to the expenses of the radiotelegraph section and whether proposals should be requested from them.

3. Should proposals be requested from certain companies and international radiotelegraph organizations? (If desired I shall telegraph list of those companies and organizations invited to participate and from whom proposals were requested for the present Paris conference as well as others suggested by the section.)

4. As all states contributing to the expenses of the bureau enjoy the right to be furnished with all publications of the bureau he assumes that we would have no objection to forwarding the requests for proposals to uninvited States merely for their information.

5. He inquires whether it is desired that the proposed new international code of signals upon its receipt should be circulated by the

²⁴ Not printed.

bureau and whether requests for proposals relative thereto should also be sent out with a view to their subsequent publication in document embodying all proposals.

6. He points out that although the proposals will be submitted to the bureau by February 1st it would scarcely be possible to have them embodied and circulated in a unique publication before May 31st. This calculation is based on the assumption that publications as in past similar cases are to be only in French. If English copies are also required there would be an additional delay of two months.

WINSLOW

574.D7/117 : Telegram

The Secretary of State to the Chargé in Switzerland (Winslow)

[Paraphrase]

WASHINGTON, *September 29, 1925—4 p. m.*

83. Refer to paragraph 6 of Legation's telegram No. 121 dated September 24, 3 p. m.

By an act approved March 4, Congress provided that the Conference should be held in Washington during the fiscal year 1926. It is therefore inadvisable to plan to hold Conference subsequent to June 30, 1926. In view of this and for other reasons the Department desires to hold the Conference in the spring of 1926.

Explain fully to bureau the wishes of this Government and ascertain shortest time in which bureau can print and distribute propositions.

Ask bureau suspend action temporarily on Department's telegram No. 80 dated September 19, 1 p. m.

Department telegraphed invitations to Argentina, Persia, and Turkey, but stated that representatives would not have right to vote unless governments ratify London convention before Conference convenes. Invitations were also extended about August 18 to Iceland through the Foreign Office of Denmark and to Ireland through Foreign Office of Great Britain.

KELLOGG

574.D7/242a

The Secretary of State to Certain Diplomatic Officers

WASHINGTON, *March 15, 1926.*

The Department encloses a translation of Circular No. 190, dated January 22, 1926,²⁵ issued by the International Telegraph Bureau

²⁵ Not printed.

at Berne, respecting the International Radiotelegraph Conference to be held at Washington. Owing to the period of time required for obtaining statements of the various governments containing proposed changes in or amendments to the International Radiotelegraph Convention concluded at London on July 5, 1912, and in the Regulations annexed thereto, it has been decided that it will be necessary to postpone the International Radiotelegraph Conference to be held at Washington from the spring of 1926 to a later date. The exact date for holding the Conference will be communicated to you in a later instruction.

You will inform the Government to which you are accredited of the postponement of the Conference and you will state that information concerning the exact date on which the Conference will be held will be forwarded at a later date.²⁶

I am [etc.]

For the Secretary of State:

LELAND HARRISON

**OPPOSITION OF THE DEPARTMENT OF STATE TO PARTICIPATION
BY THE LEAGUE OF NATIONS IN INTERNATIONAL CONFERENCES
OF AMERICAN STATES**

710.C2/166

The Secretary of State to the Ambassador in Brazil (Morgan)

No. 966

WASHINGTON, January 15, 1925.

SIR: The Department has received your . . . despatch No. 2270 of October 28, 1924,²⁷ stating that Doctor Guillermo A. Sherwell, Secretary General, Inter-American High Commission, was informed by Minister Pacheco²⁸ that it was the latter's desire that Doctor Leo S. Rowe, Director General of the Pan American Union, should visit Rio to confer with him regarding the meeting of the International Congress of Jurists which should assemble at Rio next year. You add that Doctor Pacheco advised you that one of the subjects he wishes to discuss with Doctor Rowe was the propriety of inviting the Secretary General of the League of Nations to assign a representative of the International Law Section of that body to attend the Rio meeting in order to bring the members of the Section into relation with that committee from whose advice and experience they might benefit.

²⁶ In a circular instruction dated Feb. 11, 1927, the Department informed the American diplomatic officers that for the same reasons it had been considered advisable to postpone the Conference until the fall of 1927.

²⁷ Not printed.

²⁸ Brazilian Minister for Foreign Affairs.

In reply you are informed that the Department understands that it is not Doctor Rowe's intention to visit Rio at this time but rather to visit the Central American States on returning to the United States after the termination of the Third Pan American Scientific Conference at Lima.

The Department however desires that you should, should you perceive no reason for not doing so, make known to Doctor Pacheco informally and confidentially the Department's views regarding the participation of the League of Nations, or Sections thereof, in American conferences.

It should be understood that no disparagement or criticism of the League of Nations is intended when it is observed that the International Conference of American States, and the subsidiary, technical and specialized Pan American Conferences, are organized upon a distinct and separate basis. The scope of the League of Nations is intended to be world wide and a number of American States are members of the League and are thus able to express their points of view on matters of world wide import which come before the attention of the Council and the Assembly of the League respectively. The Pan American Conferences exist because of the distinct interests of the American States which, without antagonism to any world relationship, makes it desirable for them to confer with respect to the problems which especially relate to the States of this hemisphere.

There is, of course, not the slightest opposition to cooperation with the technical service of the League of Nations through the exchange of reports and information, and reciprocal advantage may thus appropriately be taken of statistics and reports of investigation. Participation of representatives of the League of Nations in the International Conferences of American States and the more important non-technical subsidiary conferences resulting therefrom would however bring to the Conferences the view points and policies of States who are members of the League of Nations and are not American States and thus fundamentally alter the nature of the Conferences themselves.

The law of nations is of universal application. Consequently it is not suggested that there exists an American international law as distinct from that which necessarily prevails throughout the society of civilized states. There are, however, legal problems which are peculiar to the States of the American continents. In the formulation and advocacy of proposals designed to make clear the application of the principles of international law to those problems there are reasons for their particular consideration by American States; for they have a distinctive interest in a cause peculiarly their own. Thus the labors of the Congress of Jurists, like those of the International Conferences

of American States, possess a special character demanding the maintenance of the integrity of the Congress as an exclusively American institution.

I am [etc.]

CHARLES E. HUGHES

THE TACNA-ARICA QUESTION: THE ARBITRATOR'S AWARD AND THE ESTABLISHMENT OF THE PLEBISCITARY COMMISSION ²⁰

723.2515/1318c : Telegram

*The Secretary of State to the Ambassador in Chile (Collier)*²⁰

WASHINGTON, March 5, 1925—3 p. m.

7. The President yesterday signed Tacna-Arica decision. It is being printed and will be handed to the Chilean and Peruvian Ambassadors by the President at 10 o'clock Monday morning, March 9. A 12,000 word informal summary will be cabled to you before midnight tonight.²¹ You will please arrange for its immediate decoding taking every possible precaution that no inkling whatsoever of its contents becomes known to anyone outside the commissioned personnel of your mission. You will arrange an audience with the Minister for Foreign Affairs for Monday, March 9, at a time corresponding to 10 o'clock A. M. Washington time to hand him a copy of the summary.

KELLOGG

²⁰ Continued from *Foreign Relations*, 1923, vol. I, pp. 364 ff.

Among the Chilean governmental publications relating to the award and plebiscite are: *Tacna-Arica Arbitration: The Case of the Republic of Chile*, etc. [Washington (?), 1923]; *The Appendix to the Case of the Republic of Chile*, etc. [Washington (?), 1923]; *The Counter-Case of the Republic of Chile*, etc. [Washington (?), 1924]; *The Appendix to the Counter-Case of the Republic of Chile*, etc. [Washington (?), 1924]; and *Notes on the Peruvian Case and Appendix, Submitted with the Counter Case of the Republic of Chile*, etc. [Washington (?), 1924].

Among the Peruvian governmental publications relating to the award and plebiscite are: *Arbitration between Peru and Chile: The Case of Peru*, etc. (Washington, 1923); *Appendix to the Case of Peru*, etc. (Washington, 1923); *The Counter Case of Peru*, etc. (Washington, 1924); and *Appendix to the Counter Case of Peru*, etc. (Washington, 1924). Also *El Arbitraje de Tacna y Arica: Actas de las Comisión Plebiscitaria*, 2 vols. (Lima, Imprenta Torres Aguirre, 1928); *Documentos relativos al plebiscito de Tacna y Arica*, 6 vols. (Lima, Casa Editora "La Opinion Nacional", 1926); and *El proceso de Tacna y Arica (1925-1927): reseña de las principales sucesos*, etc. (Lima, Casa Editora "La Opinion Nacional", 1927).

Although it is not printed as a government publication, the following should be added to the foregoing publications: *Mcmoria presentada al Supremo Gobierno por el Miembra-Representante de Chile en las Comisión Plebiscitaria (Arbitraje de Tacna y Arica)*, etc. (Santiago, Soc. Imp. "Universo", 1926).

²¹ The same to the Ambassador in Peru as Department's telegram No. 12.

²² Not printed; see complete text of the award, *infra*.

723.2515/1824

*Opinion and Award Rendered March 4, 1925, by the Arbitrator in the Matter of the Arbitration Between the Republic of Chile and the Republic of Peru With Respect to the Unfulfilled Provisions of the Treaty of Peace of October 20, 1883, Under the Protocol and Supplementary Act Signed at Washington, July 20, 1922*²²

In response to the invitation of the Government of the United States of America, representatives of the Republic of Chile and the Republic of Peru assembled in the City of Washington in May, 1922, for the purpose of arriving at a settlement with respect to the unfulfilled provisions of the Treaty of Peace of October 20, 1883. As a result of their deliberations, a Protocol of Arbitration was signed containing the following provisions:

"ARTICLE I. It is herein recorded that the only difficulties arising out of the Treaty of Peace concerning which the two countries have not been able to reach an agreement, are the questions arising out of the unfulfilled provisions of Article 3 of said Treaty;

"ARTICLE II. The difficulties to which the preceding article refers will be submitted to the arbitration of the President of the United States of America who shall decide them finally and without appeal, hearing both Parties and after due consideration of the arguments and evidence which they may adduce. The terms and procedure shall be determined by the Arbitrator."

At the same time the following Supplementary Act was signed:

"For the purpose of defining the scope of the arbitration provided for in Article 2 of the Protocol subscribed upon this same date, the undersigned are agreed to leave on record the following points:

"1. Included in such arbitration is the following question, brought up by Peru in the session of the Conference of the 27th of May last:

"'In order to determine the manner in which the stipulations of Article 3 of the Treaty of Ancon shall be fulfilled, it is agreed to submit to arbitration the question whether, in the present circumstances, a plebiscite shall or shall not be held.'

The Government of Chile may submit to the Arbitrator such arguments in reply as may seem appropriate for its defence.

"2. In case the holding of the plebiscite should be declared in order, the Arbitrator is empowered to determine the conditions thereof.

"3. Should the Arbitrator decide that a plebiscite need not be held, both Parties, at the request of either of them, shall discuss the situation brought about by such award.

"It is understood, in the interest of peace and good order, that in such an event and pending an agreement as to the disposition of the

²² For text of treaty of Oct. 20, 1883, see *Foreign Relations*, 1883, p. 731; for texts of the protocol and supplementary act of July 20, 1922, see *ibid.*, 1922, vol. I, p. 505.

territory, the administrative organization of the provinces shall not be disturbed.

"4. In the event that no agreement should ensue, both Governments will solicit, for this purpose, the good offices of the Government of the United States of America.

"5. Included in the arbitration likewise are the claims pending with regard to Tarata and Chilcaya, according to the determination of the final disposition of the territory to which Article 3 of the Treaty refers.

"This Agreement is an integral part of the Protocol to which it refers."

Ratifications of the Protocol and Supplementary Act having been exchanged, the President of the United States of America accepted the office of Arbitrator, and the Cases and Counter Cases of the respective Parties have been submitted in accordance with a schedule of arbitral procedure proposed by the Parties and approved by the Arbitrator. The record, comprising nearly six thousand pages, having been carefully examined, the Arbitrator now renders the following Opinion and Award.

TREATY OF ANCON

Article 3 of the Treaty of Peace of October 20, 1883, known as the Treaty of Ancon, reads as follows:

"Art. 3. The territory of the provinces of Tacna and Arica, bounded on the north by the River Sama from its source in the Cordilleras on the frontier of Bolivia to its mouth at the sea, on the south by the ravine and River Camarones, on the east by the Republic of Bolivia and on the west by the Pacific Ocean, shall continue in the possession of Chile subject to Chilean laws and authority during a period of ten years, to be reckoned from the date of the ratification of the present treaty of peace.

"After the expiration of that term a plebiscite will decide by popular vote whether the territory of the above-mentioned provinces is to remain definitely under the dominion and sovereignty of Chile or is to continue to constitute a part of Peru. That country of the two, to which the provinces of Tacna and Arica remain annexed shall pay to the other ten million pesos of Chilean silver or of Peruvian soles of equal weight and fineness.

"A special protocol, which shall be considered an integral part of the present treaty, will prescribe the manner in which the plebiscite is to be carried out, and the terms and time for the payment of the ten millions by the nation which remains the owner of the provinces of Tacna and Arica."*

* (N. B. This text is the translation given in the Appendix to the Peruvian Case. The Chilean translation, which is taken from the *Foreign Relations of the United States* for 1883, is not materially different.) [Footnote in the original.]

THE ARBITRATOR'S DUTY

The Protocol and Supplementary Act, which must be read together, provide not only for arbitration but in a specified contingency for the good offices of the Government of the United States, but these contingent good offices have nothing to do with the duty which the terms of submission cast upon the Arbitrator.

That duty is—

1. To decide whether in the present circumstances a plebiscite shall or shall not be held to determine the definitive sovereignty of the territory in question as between Chile and Peru.

2. If the Arbitrator decides in favor of a plebiscite to determine the conditions of that plebiscite, including the terms and time of the payment to be made by the nation succeeding in the plebiscite as provided in Article 3 of the Treaty of Ancon.

3. If the Arbitrator decides against the plebiscite to take no further action as Arbitrator, except that—

4. Whether the decision be for or against a plebiscite, the Arbitrator is to decide the pending questions with respect to Tarata and Chilcaya arising respectively on the northern and southern boundaries of the territory.

FIRST—THE QUESTION OF THE PLEBISCITE

The first question is whether in the present circumstances a plebiscite shall or shall not be held.

The territory of the provinces of Tacna and Arica is understood to be about nine thousand square miles in area and to have a population of between thirty and forty thousand. It belongs to the desert region of the Pacific coast. There are some mineral resources but these do not appear to be extensive. The valleys proceeding from the mountains on the east give opportunities for agriculture. In one of these valleys lies the city of Tacna, which was the capital of the Peruvian province of that name. The city of Arica, the capital of the other Peruvian province mentioned in Article 3 of the Treaty of Ancon, is a port on the Pacific ocean about forty miles from Tacna, with which it is connected by railroad. Arica is the terminal of the railroad running to La Paz, Bolivia, and has commercial importance.

At the time of the signing and ratification of the Treaty of Ancon, Chile was already in possession of the territory of the provinces of Tacna and Arica, here in question, as a result of the War of the Pacific. By the terms of the Article it was agreed that she should continue in possession of this territory for a period of ten years and that during this period it should be "subject to Chilean laws and authority." It was further agreed that "after the expiration of that term" a plebiscite should be held to decide whether the territory

should "remain definitely under the dominion and sovereignty of Chile" or should "continue to constitute part of Peru," i. e., whether the territory should be permanently Chilean or permanently Peruvian. The paragraph then goes on to provide, "that country of the two" to which the provinces of Tacna and Arica "remain annexed" shall pay the other ten million Chilean pesos or Peruvian soles. Finally, the Article provides for the negotiation by the two countries of "a special protocol" which will prescribe, first, "the manner in which the plebiscite is to be carried out" and second, "the terms and time for the payment of the ten millions."

The question whether a plebiscite shall or shall not be held depends upon the question whether the second and third paragraphs of Article 3 of the Treaty of Ancon are still in effect. If these provisions have not expired by lapse of time, if they have not been abrogated or discharged by the conduct of the Parties so that performance can no longer be demanded, the plebiscite should be held because that is the agreement. If that agreement for any reason is no longer binding, then the plebiscite should not be held unless a new agreement for that purpose is made.

As the question thus relates to the construction, operation and obligation of this part of the treaty, the province of the Arbitrator is more narrow than the range of the arguments which have been presented. It is neither the duty nor the privilege of the Arbitrator to pass upon the causes or the conduct of the War of the Pacific, or upon the justice of the terms of peace, or upon the relations of either Party to the Republic of Bolivia, or upon the wisdom of the provisions of Article 3 of the Treaty of Ancon, or upon the economic effects of the treaty, or upon alleged general equities of the present situation, or upon any questions whatever which are aside from the meaning and efficacy of the agreement itself.

The correct interpretation of Article 3 of the Treaty of Ancon, as a whole, and it might almost be said, of every word thereof, has been ably and ingeniously debated between the Parties for years, and is again ably and ingeniously discussed in their Cases and Counter Cases. Into the refinements of this debate it is not necessary to go, inasmuch as they do not, in the opinion of the Arbitrator, affect the considerations which are controlling in the determination of the issues in this arbitration.

LAPSE OF TIME

At the outset, it should be observed that the second and third paragraphs of Article 3 do not provide for the termination of their obligations by lapse of time. The Article contains no provision for forfeiture. It fixed no period within which the plebiscite must be taken. The plebiscite was to be had "*after* the expiration of that term," that

is, after the ten years but no limit was defined. It was to be taken pursuant to a special agreement which it was left to the Parties to make. But no time was fixed within which the special protocol for the plebiscite was to be negotiated. Whatever may have been the reasons for leaving the matter thus at large, the fact remains that it was left without prescribed limit of time and the obligations of the Parties under the treaty must be determined accordingly.

If it be suggested that such an agreement—an agreement to agree with no time specified and no forfeiture provided—is unsatisfactory or meaningless, a three-fold answer presents itself, first, that the Arbitrator is not empowered to alter the treaty or to insert provisions, however salutary they might be in his judgment viewing the matter retrospectively, which the High Contracting Parties did not see fit to include; second, that the Treaty of Ancon was a peace treaty—the parties were engaged in a devastating war. Apparently the Parties in 1883–1884 thought it better to agree that they would agree at some unspecified time in the future than to agree to disagree in the present. They may well have taken into account the fact that failure to agree upon the terms of a plebiscite when the matter came up again for adjustment would leave unsettled one of the great issues of the War of the Pacific, and they may have believed that inasmuch as a reopening of hostilities on this account after a lapse of at least ten years was improbable and an amicable agreement would be in the interest of both parties, it was at once unnecessary and inadvisable to prescribe a time limit for the negotiations. Finally, the present arbitration is the best evidence that the agreement, elastic as it was, was not without force, since these great States, in response to its provisions, having failed again and again during the course of years to make the contemplated protocol, have now submitted to arbitration the question of the plebiscite and its conditions.

It may further be observed that the Parties at the time of the making of the treaty must have realized that they could have no assurance of the result of a plebiscite which was not to be held until after the expiration of ten years. That result was left to hope and conjecture. It might be that wise and beneficial administration might dispose the voters to favor the continuance of existing authority while oppressive administration or measures hostile to the welfare and traditions of the people might have an opposite effect. The character of the future administration and its effect, whatever its character, upon the disposition of the voters could not be safely predicted. The Parties nevertheless agreed to postpone the plebiscite long enough to make the result uncertain. And the point of the agreement was that neither Chile nor Peru was to be assured of definitive control but that the decision should be left to popular vote.

It is apparent that there are no physical obstacles to the holding of a plebiscite at the present time. So far as the necessary arrangements for a plebiscite are concerned, it cannot be said that it must be abandoned because it has become in the nature of things impracticable to hold it.

Nor has there been an agreement between the Parties to terminate the provisions of Article 3.

It is the contention of Peru, maintained with earnestness and eloquence, that Chile wilfully prevented the timely holding of a plebiscite and that her action in the course of her administration of the territory constituted a perversion of the conditions essential to the plebiscite as contemplated by the treaty; in short, that Chile by preventing the performance of Article 3 has discharged Peru from her obligations thereunder, and hence that a plebiscite should not now be held and that Chile should be regarded as a trespasser in the territory in question since the year 1894.

This contention raises two principal questions: *First*, with respect to the conduct of Chile in relation to the efforts to reach an agreement for a plebiscite; and, *second* with respect to her Administration of the territory of the provinces of Tacna and Arica.

THE FAILURE TO AGREE—DELAYS IN NEGOTIATIONS

It has not been contended that the plebiscite should have been held before the expiration of the ten-year period. The nature of the obligation imposed by Article 3 must be derived from its terms. Until the special agreement was made there could be no plebiscite. As the Parties agreed to enter into a special protocol, but did not fix its terms, their undertaking was in substance to negotiate in good faith to that end, and it would follow that a wilful refusal of either Party so to do would have justified the other Party in claiming discharge from the provision. But, as the Parties did not in the treaty prescribe the conditions of the plebiscite and left these to be the subject of a future agreement, it is manifest that with respect to the negotiations looking to such an agreement they retained the rights of sovereign States acting in good faith. Neither Party waived the right to propose conditions which it deemed to be reasonable and appropriate to the holding of the plebiscite, or to oppose conditions proposed by the other Party which it deemed to be inadvisable. The agreement to make a special protocol with undefined terms, did not mean that either Party was bound to make an agreement unsatisfactory to itself provided it did not act in bad faith. Further, as the special protocol was to be made by sovereign States, it must also be deemed to be implied in the agreement set forth in Article 3 that these States should act respectively in accordance with their consti-

tutional methods, and bad faith is not to be predicated upon the refusal of ratification of a particular proposed protocol deemed by the ratifying authority to be unsatisfactory. In order to justify either Party in claiming to be discharged from performance, something more must appear than the failure of particular negotiations or the failure to ratify particular protocols. There must be found an intent to frustrate the carrying out of the provisions of Article 3 with respect to the plebiscite; that is, not simply the refusal of a particular agreement proposed thereunder, because of its terms, but the purpose to prevent any reasonable agreement for a plebiscite. While there should be no hesitation in finding such intent, or bad faith, if established, and in holding the Party guilty thereof to the consequences of its action, it is plain that such a purpose should not be lightly imputed. Undoubtedly, the required proof may be supplied by circumstantial evidence, but the *onus probandi* of such a charge should not be lighter where the honor of a Nation is involved than in a case where the reputation of a private individual is concerned. A finding of the existence of bad faith should be supported not by disputable inferences but by clear and convincing evidence which compels such a conclusion.

It is unnecessary to review in detail the history of the negotiations between the Parties. To determine whether Peru has sustained her burden of proof with respect to the course of negotiations requires a painstaking examination of the diplomatic exchanges between the two countries which fill hundreds of pages in the record. This examination has been made and its results can be stated in a brief compass.

SUMMARY OF NEGOTIATIONS

Formal negotiations to arrive at the terms of the special protocol for a plebiscite were begun in 1892 and were diligently prosecuted for several months in formal conferences, the debates in which covered the principal questions which had arisen between the two governments, including the boundary questions which have been submitted in the present arbitration, and resulted in the Jimenez-Solar exchanges of January 26, 1894, which, however, left open the most vital conditions of the plebiscite. The negotiations were continued, but the ten-year period expired without further progress being made, and they were then interrupted, and the gains already made were largely lost by a cabinet crisis in Chile and the death of the President of Peru. In the early part of 1895, civil disturbances in Peru resulted in the establishment of a Provisional Board of Government with which the Chilean Minister opened negotiations in August, 1895, which were carried through numerous conferences and ended by an exchange of notes in February, 1896, disclosing the

respective views which had been found to be irreconcilable. There followed an interval in which the matter was not pressed by either government, the reasons for which were set forth in a joint memorandum of August 14, 1897, in which also each government expressed its desire to have a definite solution. Thereafter Señor Billinghurst, Vice President of Peru, was sent on special mission to Santiago to negotiate the protocol. As a result the so-called Billinghurst-Latorre protocol was signed on April 16, 1898. The Executives of the two countries thus reached an agreement upon all points except two, namely, the qualifications of the voters at the plebiscite and whether the voting should be public or secret, and it was agreed that these questions should be left to the arbitration of the Queen of Spain. In Peru, the protocol was approved. In Chile, the Committee of Foreign Affairs of the Senate reported on the Protocol unfavorably by a divided vote, but the Senate nevertheless approved it on August 1, 1898. A majority of the Committee of Foreign Relations of the Chilean Chamber of Deputies first voted in favor of the Protocol but later reported adversely and the Chamber of Deputies failed to give its approval. The ground especially asserted was that the points proposed to be left to arbitration should be settled directly between the two governments and the records were returned to the Executive so that new negotiations might be had "for the purpose of carrying into effect Article 3 of the Treaty of Ancon." While there was extreme disappointment in Peru at this result, neither Peru nor Chile regarded the rejection of the Billinghurst-Latorre protocol as a justification for terminating the negotiations under the treaty.

Meanwhile a serious dispute had arisen over the methods of Chilean administration in Tacna and Arica. Peru's vigorous complaints led to a diplomatic debate which reached an impasse and Senor Chacaltana, Peru's Minister to Chile, was recalled in March, 1901. The representation was not renewed until 1905. In February of that year, the Minister of Foreign Relations of Peru addressed a direct diplomatic communication to the Chilean Minister of Foreign Relations protesting against the Treaty of 1905 between Chile and Bolivia providing among other things for the construction of a railway at Chile's expense from Arica to La Paz, and giving Bolivia commercial privileges. Peru protested against this treaty as an infringement of her sovereign rights. Chile responded giving the Chilean theory in justification and concluded by inviting Peru to resume negotiations. In his reply of April 25, 1905, the Peruvian Foreign Minister said that his Government was "highly pleased to accept Your Excellency's invitation to negotiate the fulfillment of the Treaty of Ancon in respect of the provinces of Tacna and Arica." Ministers were accredited but the record does not disclose the negotiations had.

On March 25, 1908, the Chilean Minister of Foreign Affairs, Senor Puga Borne, in an elaborate note addressed to the Peruvian Minister at Santiago, proposed a series of five conventions relating respectively to commerce, merchant marine, a connecting railroad, the plebiscite and the indemnity, and set forth his views as to the manner of holding the plebiscite. The Peruvian Minister, Senor Seoane, declined to combine the plebiscitary protocol with other matters. He refuted the suggestion which had been made that "according to modern precedents the plebiscite incorporated in the history of international law constitutes a formula for disguised cession" and presented at length Peru's position as to the terms of the plebiscite. Later it was agreed that the negotiations should proceed at Lima. Thereafter occurred the so-called wreath incident. The Chilean Minister at Lima expressed a desire to place a bronze wreath on the mausoleum erected to the memory of the Peruvian soldiers who died in the war with Chile. This proposal was first accepted but later this acceptance was withdrawn and the Chilean Minister immediately returned home.

In the absence of diplomatic representation of either country at the capital of the other, there ensued a period of direct negotiations between the Foreign Ministers of the two countries. These negotiations began in August, 1909, with a note by the Chilean Foreign Minister complaining of certain language used by the President of Peru in his message to Congress in relation to the question of Tacna and Arica. The Peruvian Minister replied in justification and in another note took up the questions connected with Chilean administration, which will be discussed later. In October, 1909, Chile presented certain definite proposals as to the conditions of a plebiscite, these being founded on the Billingham-Latorre protocol and covering the points which by that protocol were to be referred to arbitration. Peru replied in November, 1909, with a memorandum of counter-proposals modifying in certain important respects the Chilean plan. Correspondence ensued setting forth the answer of Chile to Peru's complaints as to the conduct of administration in the Territory of Tacna and Arica and Peru rejoined. In a note of March 3, 1910, the Chilean Foreign Minister recurred to the idea that the plebiscites in international law were but disguised formulas for annexation and applied this to the case of Tacna and Arica saying that the provisions in question of the Treaty of Ancon were devised "as the only means designated by history of satisfying the territorial demands of Chile without deeply wounding a national sentiment of Peru." "Nevertheless," the Chilean Foreign Minister added, his Government "has sought in the holding of the plebiscite the satisfaction of its legitimate exigencies, and it only asks that the act be essentially popular and that it be effected without violating for

a single instant, by interrupting them, its rights as a sovereign in the territories of Tacna and Arica." The Chilean Foreign Minister then set out in considerable detail proposed conditions for the plebiscite,—providing that it should be held within six months after the exchange of ratifications of the protocol, and setting forth the manner in which a Directive Board and Registration and Receiving Committees should be appointed and act, the qualification of voters and the canvass of the votes.

Peru did not answer these proposals. Once more, on March 19, 1910, as in 1901, diplomatic relations were severed as a protest against the course of Chile's administration in Tacna and Arica. The Chilean Foreign Minister replied to the notice of the withdrawal of Peru's representative by calling attention to the fact that it came almost immediately after his detailed proposals for a plebiscite.

Diplomatic relations were not resumed. In September, 1912, Senor Billinghurst became President of Peru. Evidently as a result of informal negotiations, there occurred on November 10, 1912, an exchange of telegrams between the Foreign Ministers of the two countries, called the Huneus-Valera telegrams.³³ These were identic and provided: (1) for the postponement of the plebiscite until the year 1933; (2) for the supervision of the plebiscite by a committee of five delegates,—two Chileans, two Peruvians, with the President of the Supreme Court of Justice of Chile presiding; (3) for the right to vote of persons born in Tacna and Arica, and Chileans and Peruvians that may have resided for three years in the territory and who are able to read and write. There are other conditions less important. President Billinghurst explained his reasons for this agreement in a message delivered at a secret session of the Peruvian Congress. When the Huneus-Valera exchanges were made public there was a violent outburst of public opinion in Peru against President Billinghurst and the feeling thus engendered apparently contributed to the downfall of his Government in 1914. In May of that year the new government of Peru announced its succession to office and was promptly recognized by Chile. In December, 1914, Peru requested of Chile the expulsion of the former President Billinghurst from Tacna and Arica and this request was granted.

In 1920, the President of Chile authorized Senor Puga Borne to negotiate informally with the President of Peru with the instruction to keep so far as possible within the limits of prior negotiations and to submit new propositions to the home government as he might think fit. Apparently nothing came of this.

On December 12, 1921, the Chilean Foreign Minister made another attempt to reopen negotiations as to the plebiscitary protocol by proposing directly to the Peruvian Foreign Minister that the Hune-

³³ See *Foreign Relations*, 1913, pp. 1224-1226.

eus-Valera plan be taken as a basis for perfecting the protocol.³⁴ Peru responded by inviting Chile to "submit jointly the entire question of the South Pacific that divides us to an arbitration, agreed to through the initiative of the Government of the United States of America."³⁵ The ensuing negotiations led up to the present arbitration.

CONCLUSIONS AS TO THE NEGOTIATIONS

The conduct of the negotiations must be viewed in the light of the rights and obligations of the Parties, under the Treaty, as already set forth. It is not necessary to discuss the merits of the positions taken from time to time on either side. The question now presented is not whether the particular views, proposals, arguments and objections of either Party during the course of the negotiations should be approved, but as to the good faith with which these views, proposals, arguments and objections were advanced. The failure to agree upon a special protocol fixing the conditions of the plebiscite cannot therefore be regarded as being in itself a breach of the treaty. The Parties, by Article 3 of the Treaty of Ancon, having left to a future agreement the conditions of the plebiscite, must be deemed to have thereby agreed that each Party should have the right to make proposals, and to object to the other's proposals, so long as they acted in good faith.

From an examination of the history of the negotiations the Arbitrator is unable to find any proper basis for the conclusion that Chile acted in bad faith. The record fails to show that Chile has ever arbitrarily refused to negotiate with Peru the terms of the plebiscitary protocol. On the contrary, the record shows affirmatively that Chile not only has accepted Peru's invitations to proceed with the negotiations but has herself initiated negotiations. Such causes of delay as a cabinet crisis, a revolution, the illness of a minister, the death of a president—political contingencies which did not lie beyond the contemplation of the Parties—cannot be charged to either side as constituting a wilful refusal to proceed with negotiations. The argument based on the failure of Chile to ratify the Billinghurst-Latorre protocol of 1898 must proceed on the assumption either that Chile was bound to ratify that particular agreement or that Chile's conduct in relation thereto establishes absence of good faith in the prosecution of the negotiations pursuant to the treaty. Neither position can be maintained. The Billinghurst-Latorre protocol provided that two important conditions of the plebiscite, namely, the qualifications of voters and the secrecy of the vote should be submitted to

³⁴ See note of Dec. 13, 1921, from the Chilean Ambassador, *ibid.*, 1921, vol. I, p. 247.

³⁵ *Ibid.*, p. 254.

the arbitration of the Queen of Spain. Chile had not promised to agree to such an arbitration and acted within her rights in seeking a direct agreement upon these points. Nor does Chile's conduct in relation to the protocol afford ground for a finding of bad faith. The Executive of Chile negotiated the protocol and the Chilean Senate approved it. As already stated, the Committee of the Chilean Chamber of Deputies first approved the protocol and then changed its recommendation and the Chamber of Deputies acted on the adverse report of the Committee. The Legislature of Chile under the constitutional system of Chile had the same right to refuse to approve the protocol as the Executive had to negotiate it and no unfavorable inference can be drawn from the exercise by the Legislature of its constitutional prerogative in the circumstances described. The disposition of the Billinghurst-Latorre protocol cannot be regarded as due to anything other than the normal processes of constitutional government in relation to a matter of transcendent public interest, nor did Peru even under the stress of disappointment make the rejection of the protocol a basis for refusing to go on with negotiations for the fulfillment of the Treaty of Ancon. In considering the obligations of that treaty, regard must be had as well to the freedom which the Parties enjoyed under that treaty, by virtue of the fact that the conditions of the plebiscite were left to a future agreement, as to the duty which the treaty imposed. It must be concluded that Chile was no more bound to ratify the Billinghurst-Latorre protocol than Peru was bound to accept later the proposals made by Chile.

The Arbitrator is of the opinion that so far as the negotiations for the special protocol are concerned neither Party can be charged with bad faith and that there is no ground for the conclusion that Chile's action in respect to these negotiations has resulted in the abrogation of the second and third paragraphs of Article 3 of the Treaty of Ancon or absolved Peru from the obligation to proceed to their fulfillment.

CHILEAN ADMINISTRATION IN TACNA AND ARICA

It follows from what has been said that the provisions in question of the Treaty of Ancon must be regarded as still in effect unless the course of Chile in the administration of Tacna and Arica has been of such a character as to frustrate the purposes of these provisions and hence to deprive them of force.

Article 3 provided that the described territory of the Provinces of Tacna and Arica should "continue in the possession of Chile subject to Chilean laws and authority during a period of ten years" and that "after the expiration of that term" (the Peruvian transla-

tion of the text has been set forth above) there should be a plebiscite to decide whether the territory "is to remain definitely under the dominion and sovereignty of Chile or is to continue to constitute a part of Peru." There has been a long and serious controversy between the Parties (1) as to the nature of the authority thus conceded to Chile, and (2) as to the status of the territory after the expiration of the ten-year period. Chile has maintained that she had full dominion and sovereignty subject to termination by an adverse plebiscite held under the treaty, and that pending the holding of the plebiscite this sovereignty continued. Peru has insisted that the territory remained under the sovereignty of Peru; that Chile was only a possessor with administrative authority for ten years and that at the end of that period Chile's authority ceased.

(1) It is unnecessary to discuss the arguments on the question of sovereignty. It is sufficient for the purposes of the Arbitrator to take the express words of the treaty. Under the first paragraph of Article 3, the territory was to be in Chile's possession and "subject to Chilean laws and authority." This provision is without express qualification. There is no condition set forth as to either laws or authority, that is, as to the character of laws or the extent of authority. "Laws and authority" clearly embrace the full legislative, executive and judicial power. The Arbitrator has no privilege to limit the power thus conferred by the treaty. If any limit is to be found it must be in the terms of the treaty itself; that is, in the provision for a plebiscite. It may be implied that the exercise by Chile of legislative, executive and judicial power should not go to the extent of frustrating the provision for a plebiscite. Further than this, it is not possible to go without derogation of the authority which the Parties agreed that Chile should have. The question whether the administration of the territory was wise or unwise, beneficial or the reverse, was not submitted by the treaty to any review and is not reviewable by the Arbitrator. The administration of government in all countries exhibits in varying degrees the infirmities of human nature and affords abundant room for controversy as to the wisdom and justice of measures, but the Parties in their treaty did not attempt to create limitations even of a general character.

(2) Article 3 made no provision as to what should happen after the expiration of the ten-year period and pending the holding of a plebiscite. As the plebiscite was not to be held until the term had expired, it must be deemed to have been within the contemplation of the Parties that there might be an interval before the result of the plebiscite could be ascertained. But no express provision was made for this contingency. It seems unreasonable to suppose that the Parties intended that after the expiration of the ten years Chile should surrender possession to Peru, that then the plebiscite should

be held, and that, if it were decided in favor of Chile, the possession should then be restored to Chile. Such a disruption and reconstitution of administrative authority would involve practical difficulties which it is hardly to be thought that the Parties intended to create. Chile was in possession of the territory when the treaty was made and was to continue in possession for ten years, and after that period a plebiscite was to be held to determine whether the territory was "to remain definitely" under her dominion and sovereignty. The fair construction is that Chile was to retain possession pending the holding of a plebiscite and that thus retaining possession her administrative authority continued. This would be subject, of course, to the continuance in effect of the provisions of the treaty, and with the implied undertaking on the part of Chile that she would not prevent the holding of a plebiscite and would negotiate in good faith to make the contemplated special protocol to establish the conditions of the plebiscite. This seems to have been the understanding at the outset, for in the Memorandum delivered by the Minister of Foreign Relations of Peru to the Minister of Chile on March 9, 1894, it appeared that the Chilean Minister desired to include among the bases of a protocol "that the territories should remain during the plebiscite in the same state as that in which they are to-day" and that the Peruvian Foreign Minister responded "that it would be unnecessary to say so, for, only in order to change the person of the occupant, would an express declaration be necessary." If this was the situation immediately after the ten-year period expired, there is no warrant for holding that the failure to agree on the special protocol for the plebiscite produced a change unless there was bad faith in the conduct of the negotiations, and this charge, as already stated, cannot be sustained.

The Arbitrator finds the conclusion inescapable that the territory continued "subject to Chilean laws and authority" pending the negotiations for the special protocol. The question then is whether this authority has been used in such a way as to frustrate the purpose of the agreement for the plebiscite.

The conduct, of which Peru complains and which was the subject of numerous and elaborate protests evoking serious controversy, is charged to have been the execution of a policy described as "Chilenization" of the territory, embracing as alleged, (a) the subsidized introduction of Chilean citizens and (b) the dispersion of the Peruvian population after 1900.

4. The acts charged as constituting the subsidized introduction of Chilean citizens may be summarized as follows: (1) the creation of the Department of Tarata; (2) the removal of the court of appeals from Iquique to Tacna; (3) the removal of military headquarters from Iquique to Tacna and the concentration of Chilean military forces in the Provinces; (4) founding of newspapers for pro-Chilean

propaganda; (5) the subsidizing of factories; (6) the granting of railway, irrigation and other concessions; (7) colonization; and (8) the arrangements in regard to the Arica customs.

As to these charges, it may be said: The creation of the Department of Tarata involves the question of the extent of the territory covered by Article 3, a question which will be considered in dealing with the boundary dispute. In so far, however, as the creation of this department was a matter of the administrative organization of a portion of the territory placed by the treaty under "Chilean laws and authority", there would be no ground for complaint as there was no restriction upon the authority of Chile to provide administrative organization of the territory. The same is true of the removal of the court of appeals from Iquique to Tacna, the removal of military headquarters from Iquique to Tacna, and the concentration of military forces in the Provinces, if such concentration took place. All these acts were clearly within the authority conferred upon Chile by the treaty. Chile denies the charge that periodicals and newspapers were founded to carry on pro-Chilean propaganda, but apart from the issue of fact the Arbitrator finds it impossible as matter of law to deny to Chile the right to establish or subsidize newspapers in territory "subject to Chilean laws and authority." Chile admits the subsidizing of new industries in Tacna and Arica but adds that "unfortunately however these factories have been forced to discontinue operations." Whether such factories succeeded or failed, there can be no question of Chile's general right to subsidize industry. It is unnecessary to consider an extreme situation in which large sums of government money invested in the subsidizing of industries in Tacna and Arica might have stimulated a considerable artificial immigration of persons into the provinces, because no such showing has been made on the facts.

The granting of railway, irrigation and other concessions was clearly within the authority of Chile. The life of the concessions might be limited to such time as she possessed the legislative and executive power, but this is a matter which it is not necessary for the Arbitrator to determine in this case. Such a limitation would not affect the validity of the concessions during the time of the grantor's possession and authority. The only aspect in which the granting of railway and other concessions need to be considered as a factor in "Chilenization" is in relation to the tendency of such enterprises to bring Chileans, particularly Chilean workmen, into Tacna and Arica. The principal enterprise of this character undertaken by Chile as disclosed by the record was the construction of the Arica-La Paz railway undertaken in accordance with the provisions of the Chilean-Bolivian Treaty of 1904.³⁶ The record indicates that this railway

³⁶ *Foreign Relations*, 1905, p. 104.

resulted in the introduction into the provinces of Tacna and Arica of a number of Chilean laborers. To what extent these laborers remained in the provinces after the completion of the road in 1913 does not affirmatively appear, but there were such obvious economic reasons for the Arica-La Paz railway that it could not reasonably be inferred that the importation of Chilean labor in connection with this project was anything more than an incident to an enterprise which Chile was entitled to undertake. Undoubtedly successful concessions meant industrial development, development meant population, and increase of the population of the provinces in these circumstances naturally meant a greater proportion of persons of Chilean nationality, but Peru cannot object to the legitimate and normal development of the provinces during the period in which they remain under Chilean laws and authority. There is nothing in the treaty requiring stagnation.

The question of colonization is intimately related to the matter of concessions. Indeed so far as the record shows it is chiefly if not entirely in connection with the construction of public works such as the Arica-La Paz railway that Chile has achieved any measure of practical success in "colonizing" Tacna and Arica. The question of colonization was discussed between the two countries in 1900 principally upon the basis of Chile's right to alienate public lands in connection with colonization schemes, and the evidence indicates that more or less ambitious plans for colonization were from time to time under consideration and that the colonization laws of Chile were extended to Tacna and Arica in 1909. There is, however, no adequate proof that any of these colonization plans were carried out and Chile denies that the colonization law was ever actually put into operation or that any land was purchased as therein provided or that there was any substitution under these laws of Peruvian farmers by Chilean farmers. This denial is not met by any adequate affirmative evidence. In view of this state of the record it becomes unnecessary to consider to what extent Chile could have carried out a systematic policy of expropriation and colonization of the lands in Tacna and Arica before it would have amounted to such a depopulation of the provinces and substitution of Chilean for Peruvian inhabitants as to frustrate the purpose of Article 3 of the Treaty of Ancon. It is sufficient to say that the evidence fails to establish any such colonization on the part of Chile as would form any basis for a conclusion that Peru had been discharged from her plebiscitary obligation.

By various arrangements with Bolivia, Chile has conceded to Bolivia commercial and customs privileges in the ports of Tacna and Arica which have given rise to diplomatic protests on the part of Peru. Chile expressly concedes that "should Tacna and Arica as

a consequence of the plebiscite be returned to the sovereignty of Peru, the latter would take this territory free from any incumbrances resulting from such a trade agreement." In these circumstances it is not perceived that Peru has any just complaint on account of any commercial and customs arrangements which Chile may have made for the regulation of the territory subject to her authority. If such arrangements benefited the territory and thereby promoted immigration this was merely a legitimate incident of the administration of the territory contemplated by the treaty.

The Arbitrator therefore holds that, with respect to the specific acts adduced by Peru as tending to show the subsidized introduction of Chilean citizens, either as a matter of law these acts were within Chile's right under the treaty during the period in which the territory is "subject to Chilean laws and authority" or there is no sufficient evidence to show that they were in fact committed.

B. The acts of which Peru has complained as constituting the dispersion of the Peruvian population after 1900 are: (1) The closing of the Peruvian schools; (2) the expulsion of the Peruvian priests; (3) the suppression of Peruvian newspapers; (4) depriving Peruvians of the right to assemble and display the Peruvian flag; (5) the boycotting of Peruvian labor; (6) the conscription of Peruvian youth into the Chilean army; (7) the expulsion of Peruvian citizens; and (8) general persecution of the Peruvian people through mob violence either tolerated or encouraged by the authorities and miscellaneous official persecution of all kinds.

Peruvian Schools. On May 14, 1900, the Governor of Tacna issued a decree closing the Peruvian schools. The Peruvian Government made vigorous protest. It was stated by the Peruvian Minister of Foreign Affairs that this action was "contrary to the laws of Chile and, consequently, contrary to the Treaty of Ancon, which dictates their force and effect in these territories." The Chilean Minister of Foreign Affairs in answer denied that there had been exceptional procedure and asserted justification under Chilean law. It was said that permits had been refused for the schools in question because of the violation of the law by the Peruvian teachers; that neither the history nor the geography of Chile was taught as required by the general law, and that on the other hand sentiments of hostility toward Chile were inculcated in the pupils and a campaign of propaganda carried on, in view of which the action was taken pursuant to law. It was replied on behalf of Peru that schools maintained by private individuals or by tuition fees paid by pupils were subject to the inspection established by law in respect of the morality and order of the establishment but not in respect of the teaching that may be imparted in them or of the

methods that may be employed. The Chilean Minister rejoined by reasserting his position saying that "if in those schools propaganda has been made against Chile, if sentiments of hatred toward this country have been inculcated in their pupils, if in this way the authority and rights that Chile exercises have been denied," these considerations were sufficient to justify the measure as one of public order. The Peruvian Minister insisted that there was no teacher of honorable and lofty views who does not endeavor to inculcate into his pupils sentiments of love and self-denial in favor of their fatherland; that this was one of the most elementary and sacred duties; and that if in fulfilling it, the teachers had been guilty of unbecoming exaggerations, they should have been curbed according to law, but not in any other way. The matter rested with this disagreement. There is no adequate disproof of the grounds upon which Chile acted and it does not appear that she misinterpreted her laws, which cannot be regarded as being in excess of her authority. It should be added that the record indicates that Chile has not failed to provide appropriate educational facilities for the people of the territory. There are a few complaints in the record to the effect that the authorities in the Chilean schools have discriminated against Peruvians or endeavored to force Peruvians to elect Chilean nationality, but these complaints are not sufficiently numerous or well sustained to be accepted as establishing any deliberate policy.

The Expulsion of Peruvian Priests. Both Chile and Peru are Roman Catholic countries and there is no question of an attempt to introduce an alien faith. The question is essentially one of ecclesiastical patronage. As the Peruvian Minister said in his note of November 14, 1900:

"In Peru, as in Chile, the Catholic Church lives and prospers under the protection of the age-old system of patronage. According to the latter, the Civil Government, in the territorial divisions which are permanently under its control, intervenes in the creation and subdivision of dioceses, or parishes, in the creation of apostolic or other vicarages, in providing ecclesiastical benefices, and in all other functions closely related to the temporal attributes of States. Patronage, furthermore, irrespective of the source from which it is derived, is a prerogative intimately associated with the exercise of national sovereignty. Its action upon certain churches continues until sovereignty over the territories in which they are located ceases, and it is not transferred except when sovereignty itself is finally and permanently transferred. In respect to Tacna and Arica, neither has Peru ceded final control and sovereignty over them, nor has Chile acquired either of these; the moment has not arrived, therefore, to consider that the attributes of Peru, as patron in respect to these churches, are at an end."

The Chilean Foreign Minister in his answer of January 19, 1901, took issue with this position. He said:

"Your Excellency recognizes that in Peru, as in Chile, the Catholic Church lives and is developed under the auspices of the secular regime of patronage.

"This principle being established, it only remains to ascertain to which of the two Governments pertains the exercise of patronage for the provision of ecclesiastical functions and benefices in the territory that Chile occupies pursuant to the stipulations of the Treaty of Ancon.

"If the Treaty of Ancon placed the territories of Tacna and Arica under the dominion of the Chilean Constitution and laws, it would seem unquestionable that the President of the Republic must use there the special faculty that is bestowed on him by the Constitution of the State in Article LXXXII, section 13, which says:

"'13. To exercise the faculties of patronage in respect of churches and ecclesiastical benefices and persons in conformity with the law.'"

The Peruvian Minister insisted in reply that the rights asserted were related to the permanent and definite sovereignty, and belonged to Peru. In accordance with the position of Chile based on the provision that the territory should be subject to its "laws and authority," the Chilean Government demanded that the Peruvian priests secure permits from the Chilean authorities. The priests declined to request these permits and the Chilean Government closed the churches. The Peruvian priests, it is alleged, then "opened oratories which they called private but which were in fact public" and the Chilean Government ended the controversy by expelling the priests under an order of February 17, 1910. It appears that later in that year, the Holy See, without appearing to take sides in the growing controversy, created a Military Vicarship in charge of a Chilean Chaplain, who was afterwards promoted by the Holy See to the episcopal dignity.

It is not the province of the Arbitrator to deal with any matter of ecclesiastical polity, but as the fundamental question seems to have been one of ecclesiastical patronage as above stated, there is no sufficient reason for concluding that this patronage did not pertain to the territorial authority. The wisdom or expediency of the action is not before the Arbitrator.

Peruvian Newspapers. The Peruvian Case charges Chile with suspending and suppressing Peruvian newspapers but it does not satisfactorily prove this charge. In his correspondence with the Chilean Foreign Office in 1900-1901, the Peruvian Minister expressed his apprehension that the Chilean Government would yield to the wishes of subordinate officials who desired to suppress the voice of the press but he made no charge that the Government had actually inter-

ferred with the press and the Chilean Government denied that it had done so. There the matter appears to have rested so far as diplomatic exchanges are concerned until 1918 when the closing of Peruvian newspapers was listed as one of the features of the so-called Chilenization campaigns in the circular of the Peruvian Minister of Foreign Affairs of December of that year. No evidence was adduced in support of this passing reference. In like manner the Chilean Minister of Foreign Affairs in his reply of December 6, 1918, contented himself with a parenthetical assertion of the "liberty of the press." In the memorandum of the Peruvian Minister of Foreign Affairs of February 14, 1919, there appear extracts from a memorial which certain Peruvian citizens are said to have "just presented to the President of the Republic and which Government investigation proves to be absolutely accurate." In the course of this memorial it is stated "this persecution was exemplified . . .⁸⁷ by the assault and destruction of the Union Club Building in 1911 and by that of the printing offices of *La Voz del Sur*, *El Tacora* and *El Morro de Arica* during the same year."

While there is no sufficient evidence in the record to show that Chile has either suppressed or censored the Peruvian press of Tacna and Arica by operation of law or by action of the Chilean Government, there is satisfactory evidence to show that Peruvian newspapers were destroyed by mob violence in 1911. Although it is not possible on the evidence to charge this action to the Government of Chile, it does appear that the Peruvian newspapers have not been reestablished and the situation thus existing demands consideration in fixing the conditions of a possible plebiscite.

Depriving Peruvians of the Right to Assemble and Display the Peruvian Flag. The principal incidents brought forward in support of this charge are ancient and trivial. The charge fails on the dual ground that it is not sufficiently supported by the record, and that it is not shown that any regulations which may have been made were not within the reasonable discretion of the Chilean Government in the circumstances obtaining in Tacna and Arica.

Boycotting of Peruvian Labor. This is a charge which is easy to make, hard to prove, and almost equally hard to disprove affirmatively. It is made by Peru repeatedly in official documents and in the affidavits of private parties. It is denied by Chile except as to preference on public works such as the Arica-La Paz Railway. In these circumstances it has been necessary to examine in detail the individual cases in which Peru has endeavored to establish the boycotting of workmen. Among twenty-seven specific cases of expulsion, persecution, etc., which are presented in the Peruvian Case and con-

⁸⁷ Omission indicated in the original award.

tested in the Chilean Counter Case and which therefore afford the best basis for testing the contentions of the parties, there are two cases in which Peru has endeavored to establish the boycotting of workmen, the cases of Roberto Nalvarte and Alberto Forero Marquez. In both of these instances Peru distinctly fails to make out a case. Among the three hundred and forty cases of expulsion set forth in the Peruvian Counter Case there are some cases in which it is alleged that the affiant was deprived of employment because he was a Peruvian. Bearing in mind that these are ex parte affidavits to which Chile has had no opportunity to reply, there are very few of these affidavits which, in the opinion of the Arbitrator, make out a sufficient case prima facie and there is evidence elsewhere in the record which casts serious doubt upon some of these. In other words, there is a paltry showing of specific cases of boycotting of Peruvian labor and these rest upon ex parte affidavits. This is too unsubstantial a foundation upon which to establish such a charge. While the evidence leaves in the mind of the Arbitrator a question whether there has not been more discrimination against Peruvian labor than the record establishes there is nothing to indicate that this discrimination has attained such proportions as to make it possible to consider it as affording any ground for a decision against a plebiscite.

Conscription. Peru charges that Chile is applying her conscription laws to Peruvian citizens in Tacna and Arica as a means of driving them out of the provinces and thereby eliminating their votes in case a plebiscite is had. To this charge Chile interposes a three-fold defense to the effect first, that conscription is not an effective way to Chilenize a Peruvian recruit; second, that children of Peruvian parents born in Tacna and Arica and claiming Peruvian nationality are not in fact conscripted; and third, that Peru has not put in evidence the requirements of Chilean law with respect to the military service of Peruvians. The first defense misses the point of the charge. Peru does not charge that the conscription laws are being used to win votes for Chile through the Chilenization of the conscripts, but that they are being used to eliminate Peruvian votes because young Peruvians on being called on to register or enlist prefer to emigrate to Peru. The second defense is on the merits; it rests largely on the circular of the Chilean Minister of Foreign Affairs of February 12, 1920, in which, after asserting that under the Constitution of Chile, Chilean conscription laws rightfully apply to all persons in Tacna and Arica, including Peruvians, the Minister proceeds: "Nevertheless, by special administrative disposition, all youths born in Tacna and Arica who because of their Peruvian parentage, may have indicated their preference to adhere to Peru, have been eliminated from the military service in those provinces." As this defense asserts the applicability of the Chilean

conscription laws and rests upon administrative leniency in their enforcement, it is unnecessary to consider the third defense. The claim of leniency in enforcement raises an issue of fact and requires an examination of some two hundred affidavits introduced by Peru in which the affiants claim to have been forced to leave Tacna and Arica to avoid military service or to have been expelled from Tacna and Arica because of their failure or refusal to discharge their military duty under the Chilean conscription laws. The great majority of these affidavits appear in the Peruvian Counter Case and Chile has therefore had no opportunity to meet them with evidence in rebuttal. Making due allowance for this, however, and taking into account the other evidence in the record, the Arbitrator is unable to conclude that the policy of administrative leniency proclaimed by the Chilean Government with respect to conscripts born in Tacna and Arica of Peruvian parentage who themselves claim to be Peruvians, has been consistently pursued by the administrative officers on the ground. While the affidavits indicate that the enforcement of the law has been intermittent as to time and sporadic as to places and persons, and that many young Peruvians have not been molested even in places and at times when the law was being enforced against other Peruvians, they also indicate that in a considerable number of cases, particularly in the year 1923, the Chilean conscription laws have been used not so much for the obtaining of recruits (for so far the policy of leniency appears to have been reasonably well carried out) but with the result, if not the purpose, of driving young Peruvians from the provinces. So far as this has been done, the Arbitrator holds it to be an abuse of Chilean authority. However, while the record leaves it somewhat uncertain as to the extent of this abuse, it is clear that there is no sufficient showing either as to time or persons or places to establish such a serious situation as would discharge the plebiscitary obligations of the treaty. The intermittent and sporadic infractions which have occurred are however important in connection with the consideration of the conditions of a plebiscite.

Expulsion of Peruvian Citizens. The Peruvian Case and Counter Case and the Peruvian diplomatic correspondence submitted to the Arbitrator charge repeatedly that Chile has expelled and is expelling the Peruvian population of Tacna and Arica both en masse and as individuals. The Chilean Counter Case and the Chilean diplomatic documents meet this charge with unqualified denials, except as to fifty-two persons whose expulsion is admitted and justified on the ground of "repeated violations of the laws and attempted conspiracies against the State."

Peru has submitted in support of her contentions several hundred individual cases in which she maintains that expulsion has taken

place. As has been heretofore stated, twenty-seven specific instances of direct or indirect expulsion are presented in the Peruvian Case and controverted in the Chilean Counter Case. Three hundred and forty additional cases are presented in as many affidavits in the Peruvian Counter Case and there are certain other cases scattered through the documents. Each of these cases may involve either one or more individuals. Most of the evidence on both sides is in the form of *ex parte* affidavits of persons residing either in Tacna and Arica or lately resident there and now resident in Peru, and therefore subject to a greater or less degree to observation on account of their relation to the case and the environment under which they give their evidence.

In the case of the affidavits presented in the Peruvian Counter Case Chile has had no opportunity to present evidence in rebuttal, and of course in no case has there been opportunity for the confrontation or cross examination of the witnesses. In these circumstances the natural difficulties of arriving at the truth in a contested matter of this sort are greatly increased. In view however of the number of these cases put forward and the number of cases in which Chile has had an opportunity to produce evidence in rebuttal, the Arbitrator believes that a general conclusion can be safely formed from these cases in connection with the other evidence in the record. An examination accordingly has been made of each individual case of expulsion put forward in the record. To discuss these cases individually would expand this opinion far beyond its proper limits and any other discussion beyond the statement of the Arbitrator's conclusions would be unsatisfactory if not useless. The Arbitrator is of the opinion that as is usual in cases of this character, the truth lies between the extreme contentions of the respective parties. The Arbitrator accepts the statement on behalf of Chile that only fifty-two persons have been formally expelled in such a manner as to cause their cases to be formally recorded in the archives of the Ministry of Foreign Relations. But the Arbitrator can not overlook the fact that it is not necessary for the local Chilean officials to make a case of expulsion of record in order to accomplish it and that expulsions may be brought about informally by threats and intimidation without even being brought to the attention of the Chilean Government or made of record in the Ministry of Foreign Relations. In fact the evidence in the record indicates that the majority of the so-called cases of expulsion were brought about through the application or threatened application of the conscription laws and that in many of these cases there was no expulsion in any technical sense of the word. The affiant left "voluntarily" in order to escape the application of the law. The Arbitrator holds that the evidence indicates that the informal expulsions of various kinds have considerably outnumbered

the formal expulsions which are admitted and justified by the Chilean agents. How many of these formal or informal expulsions were based on good cause it is impossible to say on the record presented, but it is reasonable to conclude that aside from the conscription cases there were also other cases in which justification could not be successfully established. When all this is said however, it is very far from justifying the picture of mass expulsion and depopulation painted in the Peruvian documents. The Arbitrator finds that Peru's charges of wholesale expulsion and depopulation are not supported by the record. It is believed that Chile has underestimated the number of expulsions and that Peru has overestimated them. Taking the entire evidence into consideration, and the nature of the ultimate question presented for the determination of the Arbitrator and the principles that must be applied in its determination, as already stated, the Arbitrator is unable to find in the expulsions which have taken place any such serious and deliberate violation of Peru's treaty rights as to justify Peru in repudiating the plebiscitary obligations of Article 3. The expulsions which have taken place are however relevant in connection with the further question submitted to the Arbitrator.

General Persecution of Peruvians through mob violence and otherwise. Little need be said with respect to the question of mob violence which occupies a considerable place in the record. Unfortunately mob violence is not unknown in any country. It occurred in Chile at Iquique both in 1911 and in 1918 and Peruvians suffered. Iquique is some seventy-five miles south of the southern border of Tacna and Arica and what happened at Iquique has no direct bearing upon the matters with which this arbitration is concerned. Unfortunately again a little later on, both in 1911 and in 1918-1919, mob violence occurred in Tacna and Arica and again Peruvians were the sufferers. The responsibility for the mob violence in Tacna and Arica in 1911 and in 1918-1919 on the part of the Chilean Government is not established on this record. Again, the record is full of miscellaneous charges of official persecution of Peruvian citizens in Tacna and Arica. These charges in so far as they are serious, and some of them are very serious, are not sustained by credible and specific evidence. They rest on general declarations, and the Arbitrator is constrained to hold that these charges of general persecution are not adequately supported. There are also numerous charges of petty persecution, some of which if taken individually might be sustained, but all of which put together are not sufficiently serious to affect the decision of the weighty question under consideration.

Conclusion. The Arbitrator is far from approving the course of Chilean administration and condoning the acts committed against Peruvians to which reference has been made, but finds no reason to

conclude that a fair plebiscite in the present circumstances cannot be held under proper conditions or that a plebiscite should not be had. The agreement which the Parties made that the ultimate disposition of the territory of Tacna and Arica should be determined by popular vote is in accord with democratic postulates. It furnished when it was made a desirable alternative to a continuance of strife and it affords today a method of avoiding the recurrence of a not improbably disastrous clash of opposing sentiments and interests which enter into the very fiber of the respective nations. In agreeing upon a determination of the embittered controversy by popular vote, the Parties had recourse to a solution which the present circumstances not only do not render impracticable but rather the more imperative as a means of amicable disposition. The Parties in the Treaty of Ancon provided no alternative mode of settlement and made no provision for limitation of time or for forfeiture. It is manifest that if abuses of administration could have the effect of terminating such an agreement, it would be necessary to establish such serious conditions as the consequence of administrative wrongs as would operate to frustrate the purpose of the agreement, and, in the opinion of the Arbitrator, a situation of such gravity has not been shown.

The Arbitrator holds that the provisions of the second and third paragraphs of Article 3 of the Treaty of Ancon are still in effect; that the plebiscite should be held; and that the interests of both Parties can be properly safeguarded by establishing suitable conditions therefor.

SECOND—THE CONDITIONS OF THE PLEBISCITE

The Supplementary Act of the Protocol of Arbitration provides that "In case the holding of a plebiscite should be declared in order, the Arbitrator is empowered to determine the conditions thereof."

The Parties having failed to agree on the special protocol contemplated by Article 3 of the Treaty of Ancon prescribing "the manner in which the plebiscite is to be carried out" have submitted this question to the Arbitrator and the present Award is therefore to be deemed to be the substitute for the special protocol. The Treaty of Ancon contains no provision as to the conditions of the plebiscite, stating merely that it is to be a decision "by popular vote." As the time for the plebiscite was not fixed, save that it was not to be until after the expiration of the ten-year period, the constituency to which the Parties were to appeal was manifestly that existing at the time of the plebiscite, and, aside from the futility of such an attempt, there is no warrant for an endeavor by artificial rules to reestablish a constituency of a past period, although it may be appropriate to make reasonable regulations which will have regard to the position of the Peruvians of the provinces who may have been wrongfully expelled.

The conditions of the plebiscite should be such as will be plain and practical and work substantial justice between the Parties in the present circumstances. They have also been framed in the light of the proposals made and views expressed by the Parties respectively in the course of their negotiations, and the Arbitrator has not failed to consider whatever historical precedents may be deemed to be of value.

QUALIFICATIONS OF VOTERS

In the beginning of the Jimenez-Solar negotiations it was maintained on behalf of Peru that "the right of suffrage belonged to none except Peruvians," while the Chilean Minister urged that "all the inhabitants of the territory . . . ³⁸ had the right to declare their will to belong either to Peru or to Chile." However, this point was yielded on behalf of Peru and both Peruvians and Chileans were to be allowed to vote under the Peruvian draft protocol of February 23, 1894, submitted in the Jimenez-Solar negotiations. That draft drew a distinction as respects residence between Peruvians and Chileans permitting "Peruvians . . . ³⁸ who reside at present in the provinces of Tacna and Arica" to vote, but only allowing "Chileans who can establish a continuous residence of two years . . . ³⁸ and who live there at present" to participate in the election.

Again, in the negotiations leading to the Billinghurst-Latorre protocol of April 16, 1898 the representative of Chile maintained that "all the inhabitants of the territory" should vote; the Peruvian representative, "that only Peruvians born in the territory or that reside in it ought to be permitted to vote." By the terms of the protocol, this was one of the points to be submitted to arbitration.

In the Puga Borne-Seoane negotiations of 1908 it was contended for Chile "that all the qualified inhabitants of the territory should be called on to exercise the right of plebiscitary suffrage," but it was answered for Peru that "the right of sovereignty belongs to the natives alone" or as the Peruvian translation has it, "the right to vote belongs to the denizens alone."

In the Edwards-Porras negotiations of 1909-1910, it was proposed on behalf of Chile that "all the inhabitants, Chileans, Peruvians and foreigners" should vote. It was responded on behalf of Peru that "all the Peruvians and Chileans" should have the right to vote that met the following requirements: "*a.* Twenty-one years of age, *b.* residence in the territory at least from July 1, 1907. Those also may take part who, born in the territory of Tacna and Arica may be present at the moment of the vote, if they shall have been registered previously for that purpose. Public employees and members

³⁸ Omission indicated in the original award.

of the army or of the police that may be in service in the provinces mentioned may not vote."

The Huneeus-Valera exchanges of November 10, 1912, provided as follows: "Persons born in Tacna and Arica, and Chileans and Peruvians that may have resided for 3 years in the territory will be entitled to vote." The Chilean Case in referring to the provisions of the Huneeus-Valera exchanges according a vote to "persons born in Tacna and Arica" without a residential requirement, points out that the Huneeus-Valera plebiscite was only to take place in 1933, but expresses the view that "the right to vote because of birth in the territory is an unimportant matter."

It thus appears that on three occasions in the course of negotiations the representatives of Peru have conceded the right to vote to Chileans having prescribed residence in the territory, and that the insistence on the right to vote of persons born in the territory, irrespective of present residence is not strongly opposed. The latter provision will give opportunity to such native Peruvians of the territory as may have been expelled, without attempting the difficult task of determining all the questions of fact as to particular cases.

The only remaining question as respects nationality is whether the right to vote should be extended to residents of Tacna and Arica who are neither Peruvians nor Chileans. It must be remembered that a whole generation has grown up in the territory, since the treaty, among them a number of foreigners who are neither Chileans nor Peruvians, who do not know whether the land in which they live will ultimately be Chilean or Peruvian, and who may well have been restrained by this uncertainty from acquiring either Chilean or Peruvian nationality, although Peru permits naturalization after two years' residence and Chile after only one year's residence. In these circumstances, it would be no more than fair, while the number of such voters apparently would not be large, to permit foreigners, i. e., persons neither Chileans nor Peruvians, who have had a bona-fide actual residence in the territory for a sufficient length of time to become naturalized in either Chile or Peru, and who are willing to make affidavit of their intention to seek naturalization in whichever country is successful at the plebiscite, to have a vote. Aside from persons born in the territory, there remains to consider what period of bona fide residence in Tacna and Arica ought to qualify any person as a voter at the plebiscite irrespective of the place of his birth.

The Arbitrator is of the opinion that the date upon which the qualifications of every voter in the plebiscite should be fixed, to the extent at least that he cannot acquire rights by the lapse of time thereafter, should be the date of the protocol of arbitration and sup-

plementary act, namely, July 20, 1922. Also, that any person of Peruvian or Chilean nationality who has resided continuously in Tacna and Arica for two years prior to July 20, 1922, and who has continued to maintain his residence therein until the date of registration should be entitled to vote. Further, that any person of any other nationality who has resided continuously in Tacna and Arica for two years prior to July 20, 1922 and who has continued so to reside until the date of registration, and who makes a solemn declaration in a form to be provided of his intention to continue to reside in the province and to seek naturalization under the laws of the country successful in the plebiscite should be likewise entitled to vote. And, also that for obvious reasons it would be advisable in addition to the foregoing requirements as to residence in the territory to require residence for a short but reasonable period immediately before registration in the sub-delegation in which the voter registers.

Women's suffrage does not exist either in Chile or Peru. Neither Party has requested it nor has it been suggested in any of the negotiations between the Parties.

Ability to read and write is made a qualification for the exercise of the right of suffrage in both countries. But in view of the circumstances and of what is understood to be the character of a considerable portion of the population of the territory, it is believed to be just that a literacy qualification should not be required of those who own real property situated in the territory.

In both countries, there are certain disqualifications by reasons of military service, and in Peru, the civil servants of the State are also excluded from the right of suffrage. It is believed that persons born in Tacna and Arica should not be deprived of a vote in this plebiscite by reason of either military or civil service. With respect to others, in view of the policy of the laws of Chile and Peru, it is deemed to be advisable that those in the military service should not vote, and while Chile does not exclude from the franchise those engaged in the civil service, the Arbitrator sees no reason in this case for establishing a difference between the military and civil services.

Accordingly, the Arbitrator holds that the following persons shall be entitled to vote in the plebiscite directed to be held under this award:

A. Male persons, 21 years old, able to read and write, who qualify under one of the following classifications numbered 1, 2, and 3:

1. Persons born in Tacna and Arica, that is, in the territory as hereinafter defined in this Award;

2. Chileans and Peruvians who

(a) on July 20, 1922 had resided two years continuously in said territory; and

(b) continue so to reside in said territory until the date of registration; and

(c) reside for three months immediately preceding registration in the sub-delegation in which they are resident at the time of registration; and

(d) make an affidavit as to residence in a form to be prescribed by the Plebiscitary Commission hereafter described.

3. Foreigners, i. e., persons who are neither Chileans nor Peruvians, who are eligible for naturalization in either Chile or Peru and who fulfill the qualifications described in subdivisions *a*, *b*, *c* and *d*, under paragraph A-2, and who, in addition, make affidavit in a form prescribed by the Plebiscitary Commission of their intention to apply at once for naturalization in the State winning the plebiscite.

B. 1. Provided, however, that no person shall be denied the right to vote at the plebiscite solely because of inability to read and write who on July 20, 1922, and continuously from that date until the date when he applies for registration was the owner of real property in said territory.

2. Provided, further, that no person shall acquire a vote through residence in said territory under the provisions of paragraphs A-2 and 3 if during any part of such required period of residence he has been a member in any capacity of the army, navy, carbineers, government police, secret service, or *gendarmerie* of either Chile or Peru, or has received compensation as such; or has been a government official or civil employee in the political, judicial or fiscal service of either country, or has received compensation as such.

3. Provided, further, that military persons of all ranks and civil employees of every degree of both governments who were born in said territory shall be given the opportunity to return to their native place both to register and vote in the plebiscite.

4. Provided, further, (a) that no person serving a term of imprisonment after sentence for a non-political offense involving moral turpitude or (b) under guardianship, *non compos mentis* or insane, shall be allowed to register or vote.

The Governments of Chile and Peru shall facilitate the entry into Tacna and Arica and the transit through Chile and Peru respectively for that purpose of any person claiming to be entitled to vote at the plebiscite, and the Plebiscitary Commission shall be competent to receive claims based on alleged violations of the foregoing provision and to decide as to the validity of such claims and the right of such persons to vote.

SUPERVISION OF THE PLEBISCITE

It is obvious that the holding of the plebiscite should be appropriately supervised by competent and impartial authority, and in the negotiations of the Parties considerable attention has been given to the constitution of such authority. As one of the conditions of the plebiscite, the Arbitrator decides that there shall be constituted a

Plebiscitary Commission, and Registration and Election Boards with the following organization, powers and duties:

PLEBISCITARY COMMISSION

A. Constitution. A Plebiscitary Commission shall be constituted consisting of three members, one to be appointed by the Government of Chile, one to be appointed by the Government of Peru, and the third member, who shall act as President of the Commission, to be appointed by the President of the United States.

In case one party to the arbitration appoints a member of the Plebiscitary Commission but the other party fails to appoint a member for thirty days after the time hereafter provided in this Award, it shall thereupon become the duty of the President of the Plebiscitary Commission to appoint a member to fill the vacancy thus existing. In making this appointment the President of the Commission is not limited as to nationality except that no more than one member of the Plebiscitary Commission may be a national of either Chile or Peru.

Vacancies shall be filled according to the manner of the original appointment.

B. Procedure. The Plebiscitary Commission shall act by a majority vote and shall establish its own rules of procedure subject to the provisions of this Award.

C. Powers. 1. The Plebiscitary Commission shall have in general complete control over the plebiscite and shall have authority to determine all questions as to the registration of voters, the casting and counting of the vote and whether the persons claiming the right to register and vote are qualified to do so, subject only to the provisions of this Opinion and Award.

2. Without limiting the generality of the foregoing, the Plebiscitary Commission shall have the power and duty to promulgate rules and regulations for the plebiscite which shall provide as follows:

- (1) For the procedure of Registration and Election Boards;
- (2) For public notice of the time and places of registration and the time and places of voting;
- (3) For the registration of voters;
- (4) For the opening to public scrutiny of the lists of registered voters before the date set for voting so as to furnish opportunity for the investigation of contested cases and the correction of the voting lists;
- (5) For the secrecy of the ballot;
- (6) For the printing of the plebiscitary ballots which shall be in simple form with two columns headed by representations of the national flags of Chile and Peru, respectively, with the words "for Chile" in one column and the words "for Peru" in the other, and a

square in each column to be marked by the voter according to his preference;

(7) For the reception and counting of the ballots;

(8) For the tabulation and scrutiny of the returns of the vote;

(9) For appeals from the Registration and Election Boards to the Plebiscitary Commission;

(10) For proceedings either by way of appeal from the Registration and Election Boards or by way of original contest proceedings before the Plebiscitary Commission to exclude any or all votes cast or apparently cast at any voting place on account of intimidation, bribery or fraud.

D. Appeal to the Arbitrator. 1. The Arbitrator reserves the power and right on his own motion to entertain an appeal from the Plebiscitary Commission on any question decided by it. The Arbitrator further reserves the power and right to entertain an appeal on the certificate of the Commission to the effect that the question decided involves the interpretation of the Award, the jurisdiction of the Commission, or some question of general importance in relation to the holding or result of the plebiscite and that one member of the Commission has filed a dissenting opinion in writing and requested that the question be certified to the Arbitrator.

In every case of appeal, the Arbitrator reserves the power and right to determine the time and manner in which, and the record upon which, the appeal shall be submitted to the Arbitrator.

E. Report to the Arbitrator—Contest Proceedings. After the tabulation and scrutiny of the returns submitted by the Registration and Election Boards to the Plebiscitary Commission is complete, the Plebiscitary Commission shall report by telegraph the result of the plebiscite to the Arbitrator and to the Ministers of Foreign Affairs of the Parties. Within five days after this report either Party may institute contest proceedings before the Plebiscitary Commission upon the ground that the result of the plebiscitary vote as announced has been affected by intimidation, bribery or fraud to such an extent that the result reached does not represent the will of the people of Tacna and Arica. If such contest proceedings be instituted the Commission shall hear said proceedings summarily in accordance with rules of procedure to be determined by it and report its findings thereon at the earliest possible date to the Arbitrator and to the Parties. If no contest proceedings are instituted within five days, the Plebiscitary Commission shall so advise the Arbitrator and the respective Ministers of Foreign Affairs by telegraph.

REGISTRATION AND ELECTION BOARDS

A. Constitution and Numbers.—At least four Registration and Election Boards and as many more as the Plebiscitary Commission

finds to be necessary, each Board consisting of three members, shall be appointed in the following manner:

One member shall be appointed by each member of the Plebiscitary Commission, other than the President of the Commission, and the third, who shall act as President of the Board, shall be appointed by the President of the Plebiscitary Commission. Vacancies shall be filled according to the manner of the original appointment.

B. Procedure. The registration and Election Boards shall respectively act by majority vote.

C. Place of sitting.—One Registration and Election Board shall sit in Arica, one in Tacna and the others shall sit in such places as may be designated by the Plebiscitary Commission to the end that proper opportunity shall be given to persons qualified to register and vote.

D. Powers.—The Registration and Election Boards shall proceed, in accordance with regulations promulgated by the Plebiscitary Commission, to make up and publish lists of the voters entitled to take part in the plebiscite and shall receive and count the vote. No person not duly registered shall be allowed to vote in the plebiscite.

THE TIME OF THE PLEBISCITE

The members of the Plebiscitary Commission shall be appointed within four months from the date of the rendition of this Award, and the Commission shall assemble in the City of Arica for its first meeting not later than six months from the date of the rendition of this Award. These times may be changed by the Arbitrator. The Commission shall thereupon proceed at once to formulate rules for its own procedure and regulations governing the plebiscite in conformity with the conditions herein set forth, and shall fix the date for the plebiscite, and the time and places of registration and voting.

The dates, times and places so fixed may be changed by the Commission.

EXPENSES OF THE PLEBISCITE

A. The expenses of the plebiscite shall be borne by the two countries in equal parts.

B. The members of the Plebiscitary Commission shall be repaid their actual expenses and each member shall receive as compensation a sum equivalent to \$1,000 per month during the period of service.

C. The Commission shall at the earliest practicable moment make and submit to the Arbitrator an estimate of the total cost of carrying out the plebiscite, and a schedule showing the amounts which from time to time should be made available for the use of the Commission.

Upon the approval of this estimate and schedule by the Arbitrator the two Governments shall deposit these sums in equal parts in an institution designated by the Commission and in the amounts and at that [*the?*] times specified in the estimate. If necessary, a supplementary estimate or estimates, schedule or schedules shall be made and submitted in like manner. Any amount not expended in the necessary and proper expenses of the plebiscite shall be repaid by the Commission at the conclusion of its labors to the two Governments in equal parts.

D. Within four months after the date of the rendition of this Award, the two Governments shall each deposit in a financial institution to be designated by the Secretary of State of the United States the sum of \$15,000 to be made available for the initial expenses and compensation of the members of the Plebiscitary Commission.

E. The Arbitrator may extend the period fixed for the first deposit and may likewise modify any schedule presented by the Commission either before or after its approval in order to conform to any modification of the date of the plebiscite.

F. In case either Party does not deposit its moiety of any amount required for the expenses of the plebiscite within the time or times specified as hereinbefore provided, or as provided in any schedule prepared by the Commission and approved by the Arbitrator, the other Party may advance the requisite amount in order that the work of the Plebiscitary Commission may not be interrupted, and any amount so advanced shall be added or subtracted as the case may be in paying the treaty sum of ten millions as hereinafter provided and the reimbursement of such advance or advances shall be secured in the same manner as the payment of the ten millions is secured.

G. The Plebiscitary Commission shall appoint a bonded disbursing officer who shall on the authority of the Commission disburse from the sums deposited as aforesaid the amounts required for the work of the Commission and the Registration and Election Boards.

PROCLAMATION OF THE RESULT OF THE PLEBISCITE

Upon being properly advised by the Plebiscitary Commission of the result of the plebiscite, the Arbitrator in case no contest proceedings have been instituted as hereinbefore provided, will proclaim the result by notifying both Parties. In case contest proceedings are instituted the Arbitrator upon receiving the report of the Plebiscitary Commission thereon will either proclaim the result of the plebiscite by notifying the Parties accordingly or will declare the plebiscitary vote void and decree a new plebiscite within three months.

LEGISLATION IN AID OF PLEBISCITE

Both Chile and Peru shall enact appropriate legislation providing within their respective jurisdictions for the protection of the members of the Plebiscitary Commission and the Registration and Election Boards in the discharge of their functions; for the apprehension, trial and punishment of persons guilty of intimidation, bribery, fraud or other offense in connection with registration or voting in the plebiscite, or of interference with the Plebiscitary Commission or any of its members or any Registration and Election Board or any member or employee thereof in the discharge of their respective functions or duties; for compelling the attendance of witnesses before the Plebiscitary Commission and the Registration and Election Boards upon the request of the Commission duly made to some appropriate Chilean or Peruvian authority as the case may be and for the punishment of witnesses who when duly summoned refuse to testify before the Commission or any Registration and Election Board or who are guilty of perjury.

CLAIMS FOR REIMBURSEMENT AND ACCOUNTING

Chile contends that the Arbitrator shall impose as a condition of the plebiscite that in case Chile is defeated in the plebiscite she should be reimbursed for her expenditures for public works during the past forty years in Tacna and Arica.

Peru on the other hand insists that any investments or improvements made by Chile in Tacna and Arica since 1894 were made at her own peril, and that Peru is not responsible for their value. And, furthermore, Peru contends that not only has Chile already received the ten million pesos provided by the Treaty through her prolonged occupancy of Tacna and Arica after the expiration of the original ten year period, but that Peru is entitled to an award of twenty million pesos in addition by way of payment on account of Chile's prolonged and illegal occupation of the territory.

Although the Arbitrator is of the view that the conclusions heretofore set forth in this Opinion and Award are in effect decisive of these claims set up by the respective Parties, the Arbitrator does not consider himself to be entitled by the Terms of Submission to pass upon these claims as substantive matters. The Arbitrator is empowered to decide whether or not a plebiscite shall be held, and having decided in the affirmative the Arbitrator is then empowered to fix the conditions of the plebiscite, but the Arbitrator holds that the conditions which it is within his competence to impose are those which relate to the holding of the plebiscite and the matters which were to have been established by the special protocol contemplated

by the Treaty of Ancon. The claims presented by the Parties do not relate to the manner in which the plebiscite is to be carried out.

The Arbitrator therefore dismisses these claims of both Parties on the ground that they are not within his jurisdiction.

THE PAYMENT OF THE TEN MILLIONS

Article 3 of the Treaty of Ancon provided, in the third paragraph relating to the contemplated special protocol, that this protocol should prescribe "the manner in which the plebiscite is to be carried out, and the terms and time for the payment of the ten millions by the nation which remains the owner of the provinces of Tacna and Arica." As this payment by the terms of Article 3 depends upon and is to follow the plebiscite, it is deemed to be within the duty of the Arbitrator under the agreement of submission to determine the time and terms of payment. The matter is one in which there is no controlling legal principle. It is a question to be determined within certain general limits of fairness in the light of the treaty obligation.

Chile in her case has informed the Arbitrator of her present desires, but doubtless because in her view of the case it was unnecessary to do so, Peru has not discussed the plan for the payment of the ten millions suggested by Chile or indicated her present views on the subject. Chile, however, in addition to proposing a plan of payment, has also indicated her present readiness to accept an arrangement which was at one time acceptable to Peru, namely, the arrangement for which provision was made in the Billingham-Latorre protocol of April 16, 1898. This was as follows:

"Article XV. The indemnity of ten million pesos prescribed by Article III of the Treaty of October 20, 1883, will be paid by the country that shall become the owner of the provinces of Tacna and Arica on the following terms: one million within the period of ten days, reckoned from the proclamation of the general results of the plebiscite; another million within the following year; and two millions at the end of each year of the subsequent four years.

"The sums referred to will be paid in Peruvian silver *soles* or in Chilean silver coin of the kind that circulated at the time when the Treaty of October 20, 1883, was signed.

"Article XVI. The total products of the customhouse at Arica are assigned for the payment of the indemnity mentioned in the preceding article."

As there is no apparent reason for adopting a basis of a different sort, the Arbitrator holds that the payment of the ten millions should be made in the following amounts and at the following times:

One million within ten days after the proclamation by the Arbitrator of the result of the plebiscite;

A second million within the year following; and

Two millions at the end of each year of the subsequent four years.

These sums shall be paid in Peruvian silver soles or in Chilean silver coin equivalent to the kind in circulation on October 20, 1883.

The total revenues of the Custom House at Arica are assigned as security for the above payments.

THIRD—THE BOUNDARY QUESTIONS—TARATA AND CHILCAYA

The remaining questions relate to the boundaries of the territory to which Article 3 of the Treaty of Ancon refers. The Article describes that territory as follows:

"The territory of the provinces of Tacna and Arica, bounded on the north by the River Sama from its source in the Cordilleras on the frontier of Bolivia to its mouth at the sea, on the south by the ravine and River Camarones, on the east by the Republic of Bolivia, and on the west by the Pacific Ocean, shall continue in the possession of Chile subject to Chilean laws and authority during a period of ten years, to be reckoned from the date of the ratification of the present treaty of peace."

THE NORTHERN BOUNDARY—TARATA

Immediately after the signing of the treaty, a dispute arose as to the northern boundary and the controversy has continued ever since. Chile contends that the treaty established a river line, that is, the River Sama from its source to its mouth and that this line should be defined and followed as the northern boundary irrespective of any Peruvian provincial lines. According to Chile's contention, the territory in question would embrace not only territory of the Peruvian provinces of Tacna and Arica but also a portion of the Peruvian province of Tarata. Peru insists that Article 3 of the treaty dealt solely with the Peruvian provinces of Tacna and Arica and that no part of the province of Tarata was included.

It is not open to dispute that at the time of the signing of the treaty there existed under Peruvian law, and had existed for several years, a Peruvian department known as the Department of Tacna and that this department embraced three provinces known as the Provinces of Tacna, Arica and Tarata. It is also clear that the reference in the treaty to the provinces of Tacna and Arica must be taken to relate to the Peruvian provinces of Tacna and Arica. If it were not for the description of the river Sama as a boundary no one would suggest that any territory was included which was not within the limits of the two Peruvian provinces named.

The argument for the inclusion of other territory is that the reference to the two provinces must be deemed to be controlled by the described river line. The difficulty with this argument is that there is in fact no such river line as the treaty describes. There is no river Sama that has "its source in the Cordilleras on the frontier of

Bolivia." The river Sama as known and defined is formed by the confluence of the River Chaspaya and the River Tala, a confluence which takes place west of the town of Tarata (the capital of the Peruvian province of that name). From that junction the river Sama flows to its mouth at the sea cutting across the northern portion of the Peruvian province of Tacna. So that there was territory of that province lying south of the river Sama and the Peruvian province of Arica lay to the south of the province of Tacna. There is a dispute as to which of the tributaries of the river Sama east of the junction of the rivers Chaspaya and Tala should be regarded as the main affluent or the continuation of the river Sama, but neither the Chaspaya nor the Tala, nor their tributaries, conform to the description of the treaty and enable the Arbitrator to establish any line of the river Sama as described "from its source in the Cordilleras on the frontier of Bolivia to its mouth at the sea." The Chilean Case states that the Chilean geographer, Alejandro Bertrand, in a report to the Government of Chile in 1903, suggested "as a solution of the problem brought up by the fact that the River Sama does not rise in the mountains bordering upon Bolivia," the adoption of a line that would unite the source of the Chaspaya or of the Ticalaco (which appears to be a tributary of the Tala) with the intersection of the two old Peruvian departments of Tacnan and Puno at the Bolivian border. In this uncertainty, Chile insisting upon a river line suggests that the Arbitrator appoint a Special Commissioner to investigate and report for the purpose of establishing a boundary line in the area intervening between the head of one or the other of the tributaries of the river Sama and the frontier of Bolivia.

After the treaty was signed, Chile established her occupation on the line of the river Ticalaco, a river which lies about midway between the northern tributary of the Sama, the Chaspaya, and a southern tributary, (apparently through the Tala) the Estique, but she insists that she has always claimed the Chaspaya as the true source of the Sama. Peru at once protested against occupation under the treaty of any portion of the Province of Tarata and has always maintained this position. Chile, under her claim of right, proceeded to establish a Chilean Province of Tacna, including a sub-delegation of Tarata. In a dispatch of July 14, 1886, from the Peruvian Consul in Iquique to the Peruvian Foreign Minister, it is stated that Chile had assumed jurisdiction in three of the districts of the Peruvian Province of Tarata, that is, the districts of Tarata, Tarucachi and Estique.

It is quite apparent that the representatives of the Parties who negotiated the treaty, had little exact knowledge of the geography of the region to the east and wrote into the treaty an inaccurate description. It should also be said that there has not been furnished

to the Arbitrator satisfactory evidence as to the exact line of the old Peruvian provincial boundaries. The record is strikingly deficient in appropriate maps and geographical information bearing upon these questions.

Despite these difficulties, the Arbitrator finds certain controlling considerations in the construction of the treaty. The fundamental question is the intention of the Parties and any artificial construction is to be avoided. The Peruvian Provinces of Tacna and Arica were well known political divisions with their respective capitals of like names, and the Peruvian Province of Tarata was also a well known political division with its capital of the same name. It is difficult to believe that representatives of Governments who, however lacking in exact geographical information, knew of these political divisions, and the jurisdictions they denoted, and particularly the most important towns they embraced, would have used the expression—"the territory of the provinces of Tacna and Arica" when they intended to embrace not only such territory but also a portion of the territory of a distinct political division known as Tarata. The argument that this reference to political divisions should yield to a described geographical boundary assumes that there is a definite geographical boundary laid down, which is not the case, or that the description of a geographical boundary indicates an intention to include territory lying outside the provinces of Tacna and Arica, when in truth the description of a geographical boundary which did not exist serves to indicate that they did not know where the geographical boundary lay which they were attempting to describe. The reference to the political divisions known as the provinces of Tacna and Arica cannot, in the judgment of the Arbitrator, be overridden by a description of a line which it is impossible to lay down as described.

Some light is thrown upon the question by the history of the negotiations leading to the Treaty of Ancon. In the conference of October 28, 1880, Chile stated as one of the conditions of peace:—"Retention on the part of Chile of the territory of Moquegua, Tacna, and Arica, occupied by Chilean forces." In the protocol of February 11, 1882,³⁹ Chile made the condition: "Occupation of the region of Tacna and Arica for ten years." Reference is made by Chile in her Counter Case to a proposal of the Minister of the United States in Chile to the Chilean Foreign Minister, in the course of good offices, that Chile should have the right to purchase "the Peruvian territory between the river Camarones and the River Sama," but if any significance is to be attached to this as a proposal of a river line exclusively, it is met by the fact that in the later protocol of May 10, 1883,⁴⁰ the

³⁹ *Foreign Relations*, 1882, p. 83.

⁴⁰ *Ibid.*, 1883, p. 117.

Parties did not set forth a river line but stated that "The territories of Tacna and Arica shall continue in the possession of Chile," etc.

There were further discussions on the wording of the paragraph in question when the time came for the signature of the formal treaty, and it is to be regretted that the record is not more complete on this point. There is some evidence in the record which indicates that Chile endeavored to obtain the insertion of the expression "Department of Tacna" which would have embraced the provinces of Tacna, Arica and Tarata. The Peruvian Counter Case quotes from the work of Gonzalo Bulnes ("Guerra del Pacifico"—vol. III, p. 578) what purports to be a telegram from the Chilean Foreign Minister, then in Lima, to the President of Chile, on October 18, 1883, two days before the signing of the treaty, as follows:

"In subscribing the definitive treaty, read the telegram of Aldunate to Santa Maria (President of Chile) dated October 18, 1883, we said that the *department* (*departemento*) de Tacna was to remain for ten years in the power of Chile; and the negotiators of Iglesias (President of Peru) argue that what was agreed in May, covered only the area, until the plebiscite of the *provinces* (*provincias*) of Tacna and Arica as far as the river Sama, and *not the additional province of Tarata* (*no la otra provincia de Tarata*) which reaches up to Locumba and which also forms part of the *departemento* de Tacna. In the presence of this difficulty, I do not dare to decide anything by myself. If we, concluding a treaty, had said that we ceded the territories (*territorios*) of Santiago and Victoria, would it be understood that we also ceded Rancagua? Everything is prepared for the delivery of Lima and Callao on Saturday; and the present difficulty causes grave perturbation."

While Chile has not had the opportunity to reply to the Peruvian Counter Case, it is apparent from the Chilean Counter Case that some question of this sort had arisen, as it gives a telegram of October 19, 1883, from the President of Chile to the Chilean negotiators as follows:

"The telegrams and records that we have consulted convince us that we always have pointed to the River Sama as the boundary line between the Peruvian territory and that territory that is to be turned over to Chile. According to the conditions of the agreement we took the Sama in its entire extension, from the coast to the point where it branches off and continues to the Bolivian border, all settlements south of that line to be included in the territory to be ceded. When the said line was fixed it was also kept in mind that the entire road leading into Bolivia—a fact that could not be overlooked—remained in the territory to be ceded, according to the result of the plebiscite. If, by taking the Sama as the boundary line, Tarata remains under our control, let it be so. We are keeping our word. We did not speak of departments but of territories when we mentioned Tacna and Arica before, because we fixed a line such as the Sama, which might or might not be a boundary line in the Peruvian territorial divisions of those regions."

Peru has had no opportunity to comment on this telegram.

The inference to be drawn from these exchanges is that the question of including territory of the province of Tarata was in the minds of the Parties. If Chile sought to include Tarata, she did not succeed in securing a reference to the province of Tarata in the description. If it was thought that the mention of the river boundary would effect this purpose, the fact remains that the description of the territory as that "of the provinces of Tacna and Arica" was put in the treaty and the river line was deprived of a controlling significance by its inaccuracy. If it be assumed, as appears to be the fact, that the question of the inclusion of territory of the province of Tarata was presented, it is deemed to be decisive that the treaty does not set forth a river line exclusively, and that the words "the territory of the provinces of Tacna and Arica" were retained. There is no sufficient evidence of intention, and no provision of sufficient precision, as to justify the conclusion that any territory of the province of Tarata was included in Article 3.

It does not militate against this view that the exact line of the Peruvian provincial boundary is not defined in the record, or that there may have been some uncertainty in relation thereto. The capital of the Province of Tarata was the town of Tarata, a town of considerable importance. This furnishes a test as, on the Chilean claim, the town of Tarata was to go to Chile. But it is plain that neither of the Parties supposed that the town of Tarata was in the territory of the provinces of Tacna and Arica. So, also, arguments based on the strategic or economic importance of Tarata must be dismissed. If Chile for any reason attached importance to the retention of Tarata, it is all the more significant that she did not include in the treaty any reference to the Province of Tarata, while making distinct reference to the provinces of Tacna and Arica. Not only the first paragraph, but also the second and third paragraphs, of Article 3 of the treaty refer to these provinces. The second paragraph states that the plebiscite will decide "whether the territories of the above mentioned provinces will remain under the dominion and sovereignty of Chile or continue to form part of Peru." It is added that either of the two countries to which "the provinces of Tacna and Arica" may remain annexed shall make the described payment. The third paragraph provides that the special protocol will prescribe the terms and time of the payment to be made by the nation "which may remain in possession of the provinces of Tacna and Arica."

The Arbitrator decides that no part of the Peruvian Province of Tarata is included in the territory covered by the provisions of Article 3 of the Treaty of Ancon; that the territory to which Article 3 relates is exclusively that of the Peruvian provinces of Tacna and Arica

as they stood on October 20, 1883; and that the northern boundary of that part of the territory covered by Article 3 which was within the Peruvian Province of Tacna is the River Sama.

THE SOUTHERN BOUNDARY—CHILCAYA

The southern boundary of the territory covered by Article 3 of the Treaty of Ancon is stated therein to be "the ravine and River Camarones."

In this relation, it should be noted that Article 2 of the treaty provided for the cession by Peru to Chile in perpetuity of "the territory of the littoral province of Tarapaca, the boundaries of which are, on the north the ravine and River Camarones."

It thus appears that by both these articles the boundary between the Peruvian Province of Tarapaca, ceded absolutely to Chile, and of the territory of the Peruvian provinces of Tacna and Arica to be continued, as stated, in the possession of Chile, is given simply as "the ravine and the River Camarones." There appears to be no dispute as to this boundary between the mouth of the river Camarones at the Pacific Ocean and Arapunta, the junction of the two principal tributaries, the Ajatama coming in from the northeast and the Caritaya coming in from the southeast. Chile contends that the Ajatama is the true continuation of the Camarones and claims the line of the Ajatama to the point where it is joined by the Rio Blanco and from that point draws a line to the Bolivian frontier which is based largely upon what Chile asserts to have been the legal or traditional boundary line between the territories of the Peruvian provinces of Arica and Tarapaca. This is in accord with a Chilean decree of May 4, 1904. Chile, however, asks that an expert commission be appointed by the Arbitrator to fix the line.

Peru expresses her intention of abiding by the decision which the Arbitrator may consider to be appropriate and equitable, but is understood to claim the river Caritaya as the true boundary from Arapunta to its source, apparently maintaining that that source intersects with the Bolivian frontier.

Between these two lines lie the valuable borax deposits of Chilcaya, over which there has been a serious controversy between rival private claimants. This dispute may have been influential in bringing about the delimitation decree made by Chile in 1904. Much of the evidence introduced in this record consists of reports and opinions which were pertinent to the controversy between private litigants. In the litigation, it was held in 1904, by the Chilean court in Arica that the plaintiffs, claimants of the borate mines of Chilcaya under Tarapaca titles had failed to sustain their claims by a preponderance of evidence and that the judgment should be in favor of the defendants

in possession claiming under Arica titles. The court held, however, that it was not competent to decide on the boundaries between Arica and Pisagua (Tarapaca). On January 3, 1905, this decision was affirmed on technical grounds by the Chilean Court of Appeals of Tacna.

Both Parties seem to agree that the treaty line and the old Peruvian provincial boundary line are the same, and the Arbitrator taking the clause in question in the light of its context is of this view. It is impossible, however, to fix this line upon the data submitted to the Arbitrator.

The Arbitrator decides that the southern boundary of the territory covered by Article 3 of the Treaty of Ancon is the Peruvian provincial boundary between the Peruvian provinces of Arica and Tarapaca as they stood on October 20, 1883.

CONCLUSION

The Arbitrator accordingly decides:

That the territory to which Article 3 of the Treaty of Ancon relates, and the disposition of which is to be determined by the plebiscite to be held as hereinbefore provided, is the territory of the Peruvian provinces of Tacna and Arica as they stood on October 20, 1883; that is to say, so much of the territory of the said Peruvian province of Tacna as is bounded on the north by the River Sama, and the whole of the said Peruvian province of Arica;

That the Arbitrator reserves the power and right to appoint a Special Commission consisting of three persons, one to be nominated by Chile, another to be nominated by Peru, and the third to be designated by the Arbitrator, to draw the boundary lines of the territory covered by Article 3 of the Treaty of Ancon in accordance with the determination of the Arbitrator in this Opinion and Award; that if either Party fails to make its nomination of a member of said Commission within four months after the date of this Opinion and Award, the Arbitrator shall have the power and right to appoint a member of said Special Commission to fill the vacancy so arising; and that vacancies in said Special Commission shall be filled in the same manner as the original appointments;

That within four months after the date of this Opinion and award, each Party shall deposit a sum to be fixed by the Arbitrator in an institution to be named by him in order to meet the expenses and compensation of the members of said Special Commission and the Parties shall within two months after the date of this Opinion and Award submit to the Arbitrator their estimates of said expenses and compensation; that the failure of either Party to submit such estimate, shall not prevent the decision of the Arbitrator as to the amount

of such deposit, and if either Party fails to make deposit of the amount fixed by the Arbitrator, the other Party may make the deposit required and the amount so advanced by either Party on behalf of the other shall be added to or deducted from the amount to be received or paid by such Party, making the advance, under the second paragraph of Article 3 of the Treaty of Ancon;

That all the periods hereinbefore mentioned may be extended or changed by the Arbitrator;

That the holding of the plebiscite as hereinbefore provided shall not be delayed to await the proceedings or report of said Special Commission on boundaries but that either Party may challenge the right of any person to register or vote in said plebiscite upon the ground that he was born or resided as the case may be, outside the limits of the territory covered by Article 3 of the Treaty of Ancon as defined in this Opinion and Award, and the Plebiscitary Commission shall cause a separate record to be kept of all such persons whose right to register and vote may be affected by the report of the Special Commission on boundaries, and the votes of such persons shall also be separately kept.

That the Arbitrator reserves the power and right to pass upon, adopt, modify or reject the report of said Special Commission, or to appoint a new Special Commission and pass upon its report in like manner;

That if it appears from the report of the Plebiscitary Commission that the result of the plebiscite may depend upon the votes of persons whose right to register or vote may be in doubt until the boundaries of the territory covered by Article 3 of the Treaty of Ancon have been fixed as hereinbefore provided, the Arbitrator shall withhold the proclamation of the result of the plebiscite until said boundaries have been fixed and the right of such persons to register and vote has been determined accordingly.

IN TESTIMONY WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE in triplicate at the City of Washington on the fourth day of March in the year one thousand nine hundred and twenty-five, and of the Independence of the United States the one hundredth and forty-ninth.

[SEAL]

CALVIN COOLIDGE

By the President:

CHARLES E. HUGHES,

Secretary of State

723.2515PC/8a : Telegram

*The Secretary of State to the Ambassador in Chile (Collier)*⁴¹

WASHINGTON, March 23, 1925—1 p. m.

12. Inform Chilean authorities that the President has today appointed General John J. Pershing as President of the Plebiscitary Commission. The Department hopes to be able to advise you in a few days of the President's nominee on the Special Commission to determine the boundaries of Tacna-Arica.⁴²

KELLOGG

723.2515PC/18

The Chilean Ambassador (Mathieu) to the Secretary of State

[Translation]

No. 14

WASHINGTON, March 26, 1925.

EXCELLENCY: I have the honor to inform Your Excellency, with the request that you kindly convey the information to His Excellency the President, Mr. Coolidge, that under the stipulations of the Opinion and Award of His Excellency, the President of the United States, as umpire in the case between the Republic of Chile and the Republic of Peru, the Government of Chile has designated to serve as a member of the Plebiscite Commission created by the said Award, Señor Don Agustín Edwards.

I avail myself [etc.]

B. MATHIEU

723.2515/1416

The Peruvian Ambassador (Velarde) to the Secretary of State

[Translation]

WASHINGTON, April 2, 1925.

EXCELLENCY: I have the honor to deliver to Your Excellency with the request that you forward it to its high destination the enclosed memorial which the Peruvian Commission of Defense sends in the name of the Government of Peru on the occasion of the Award made by the Arbitrator concerning the Provinces of Tacna and

⁴¹ The same, *mutatis mutandis*, to the Ambassador in Peru, as Department's telegram No. 21 (file No. 723.2515PC/8a).

⁴² By telegrams of Mar. 27, 5 p. m., the Ambassadors in Chile and Peru were instructed to inform the Governments to which they were accredited that Gen. Jay J. Morrow, U. S. Army (retired), ex-Governor of the Panama Canal Zone, had been appointed American member of the Special Boundary Commission (file No. 723.2515PC/15a,b).

Arica to the Honorable Arbitrator, His Excellency, the President of the United States of America.

In making this request I renew [etc.]

HERNAN VELARDE

[Enclosure]

The Peruvian Commission of Defense to President Coolidge

WASHINGTON, April 2, 1925.

TO HIS EXCELLENCY, THE PRESIDENT OF THE UNITED STATES OF AMERICA:

The Peruvian Embassy having informed the Peruvian Defense Commission of your decision in the Tacna and Arica case, and the same having been communicated to the Government of Peru, I am directed to express to your Excellency how highly the Government of Peru appreciates the courtesy of the President of the United States in having pronounced his finding upon the question which was submitted to him for arbitration by the protocol and supplementary act signed at Washington on the 20th of July, 1922. I am furthermore directed to present to your Excellency the following as the views of the Government of Peru.

Before signifying its consent to participation in the plebiscite which is ordered by the said Opinion and Award, it cannot neglect to set forth certain considerations relative to the very essence of the Opinion and Award and to present definite requests tending to the best and most faithful execution of the plebiscite.

First of all, the Government thinks that the Honorable Arbitrator has been led into a substantial error, from which the decision in favor of the plebiscite at this time is derived, in translating the words, which, in the text of the Treaty, say literally: "expirado este plazo", which in the English language is equivalent to "At the expiration of this time limit", or "this time limit having expired", by the words "after the expiration of", which, translated into Spanish, mean "después de expirado"; the phrase given in the authentic text thus peremptorily fixes a time limit of ten years for possession by Chile, and fixes the time for the realization of the plebiscite. Had the Honorable Arbitrator obtained a correct and unimpeachable translation of the Spanish words used in the Treaty of Ancon, he would necessarily have arrived at the logical conclusion that the plebiscite should have taken place in 1894; and he could not have reached the unacceptable conclusion, which deeply wounds the Peruvian national pride, that Chile had the right to hold our provinces after the time limit expressly stipulated in the Treaty of Ancon, thus leaving the indefinite prolongation of the said period at the arbitrary will of one of the parties.

It is therefore necessary to declare respectfully, before the Honorable Arbitrator, that Peru cannot accept the declaration as to the legitimacy of the Chilean sovereignty over the territories of Tacna and Arica, or the legitimacy of their occupation during the years subsequent to 1894. My Government cannot understand the argument contained in the Opinion and Award to the effect that since no provision was made in the third clause for the nullification of the obligations at the expiration of the time limit, such nullification could not have taken place. The nullification, by its nature, need not be stipulated by the parties, since it is automatically effected when certain circumstances are brought about, without the necessity for a previous agreement; and it is a general principle in law that one reason for nullifying a contract is failure to fulfil the obligations within the time stipulated.

Moreover, the time stipulated was ten years, as is declared specifically and unequivocally by the text of Article 3 of the Treaty of Ancon, when it says, "the territory of the provinces . . . shall continue in the possession of Chile and subject to Chilean laws and authority for a period of ten years, from the date of the ratification of the present Treaty of Peace". As the ratification was effected on March 28, 1884, the possession by Chile and the subjection of the territory to the legislation and authorities of that country legally ended on March 28, 1894. The failure to effect the plebiscite upon the expiration of that day, that is, immediately after March 28, 1894, constituted a failure to comply with the third clause and consequently made it void.

While it is true that in the Appendix to the Case of Peru the Treaty was presented in the form given in *Foreign Relations of the United States*⁴³ where it is roughly translated "after the expiration of", the obvious meaning of "after" is "upon", or "at", or "immediately after" the expiration of the ten year time limit, and not "at any time after", as the Honorable Arbitrator evidently assumed. In the Case of Peru, on pages 22 and 155, and in the Countercase of Peru, on pages 7, 26, 50 and 71, the correct translation of "expirado este plazo un plebiscito decidirá" was given, and on page 26 of the Countercase of Peru it is clearly shown that these Spanish words can only be correctly translated into English as "at the expiration of that term a plebiscite will decide."

While the Opinion and Award mentions the rather inaccurate translation in the Appendix to the Case of Peru, it does not mention the fact that twice, in the Case of Peru, and four times in the Countercase of Peru, the accurate translation was made entirely clear, and urged earnestly as the claim of Peru.

⁴³ *Foreign Relations*, 1883, p. 731.

The importance of this error of translation is shown on page 7 of the Opinion and Award, where the following language is used:

"The plebiscite was to be had 'after the expiration of that term,' that is, after the ten years, but no limit was defined."

In point of fact, correctly translated, there was a specific limit of time, and that limit was "at the expiration of that term," which was limited, by the Treaty, to ten years from the date of ratification of the Treaty. The Treaty was ratified March 28, 1884. The ten years therefore expired on March 28, 1894.

The word "plazo" is defined in Spanish dictionaries to mean "time limit", so that the language of the Treaty, correctly translated, expressly fixes a time limit for the holding of the plebiscite.

The exact translation of the words would be "expirado", "having expired", "este", "this", "plazo", "time limit", which is the equivalent of "at the expiration of that term", and clearly places a time limit upon Chilean possession of the provinces, and upon the holding of the plebiscite.

The Spanish word "después" means "after", in the sense adopted by the Honorable Arbitrator. No such word is found in the Treaty, and no other word that could be properly interpreted to mean "after" in such a sense.

To insert the word "después"—"after"—in the second paragraph of Article 3 of the Treaty of Ancon is to change entirely its meaning and add an express provision not therein contained.

The consequence of this error of translation runs through the entire Opinion and Award. It is made the basis of excusing Chile for failing to surrender possession of Tacna and Arica at the time named in the Treaty, when the right of Chilean possession ceased, and it is used to relieve Chile from responsibility for all the acts committed under the claim of sovereignty illegally committed by Chile since March 28, 1894, inasmuch as possession of the provinces should, under the terms of the Treaty, have been yielded to Peru at that time.

It must also be noted that the Honorable Arbitrator seems to have failed to give weight to the conclusive proofs offered by Peru relative to the expulsions, spoliation of property, acts of terrorism and fraudulent colonization of Chileans on lands of the Peruvians, facts which are so notorious to the world that the Honorable Arbitrator might well have taken judicial notice thereof, and which are sufficient, if they are duly examined and appreciated, to leave no doubt as to the error of submitting this controversy to solution through a plebiscite.

The manner with which the Opinion and Award has seemed to treat these acts of vandalism, outrage, and oppression has led the Chileans to renew their persecutions against the Peruvians of

Tacna and Arica even since the Award was published, as if they were reassured that they could continue to commit such crimes with impunity. Indeed, through our Embassy, we have informed the Honorable Arbitrator of the recent criminal acts, among which are the following:

A Peruvian merchant, Antonio Mollo, with his family, on the 11th of March was violently driven out from Putre. In Tarata the Peruvian homes of Musso, Bulis and Bravo were assaulted, and the last named was killed. The schools of Tacna have been closed. Martines Birne's house on the Chilean side of the River Sama in Tacna was also assaulted, after the Award was handed down, by three Chilean carabineers and the master of the house and two other Peruvians, Roman y Angel Yanes, and all the occupants of the house were tied and beaten. Threats and violence were committed against defenseless Peruvian inhabitants of Tarata, the women being outraged by Chilean carabineers. The Peruvians Felix Nalvarte, Timoteo Rodriguez, Vicente Mamani, Pedro Lamrec and Lorenzo Flores having escaped from the persecutions of Chilean authorities in Arica, reached Locumba and advise that two hundred Peruvians resident in Arica were shipped from that port to the south of Chile to avoid their vote in the plebiscite. New detachments of Chilean carabineers have been established on the Ticalaco and Tarata rivers cutting off communications between Locumba and Tarata and from there are shooting in upon the defenseless inhabitants of Locumba. Chilean forces are terrorizing the Peruvian inhabitants of the territories involved in the plebiscite with the purpose of forcing them to vote in the plebiscite in favor of Chile, and when they resist they are persecuted and expelled from the territory. Steps are being now taken by Chilean officials to compel Peruvian citizens by force to sign documents of allegiance in which they request that they continue under Chilean sovereignty. Carlos Becerra, Manuel Corvacho, Felix Baluarte, Saturnino Florez, Miguel Corvacho, Nataniel Corvacho, Luciano Lira, Benjamin Navarro, Tomas Chambo y Carlos Otoy have arrived at Locumba, fugitives from Chilean persecutions in Arica, saying that their families have been cruelly outraged. They were forced to flee, making the trip on foot, to avoid being embarked for the South of Chile.

This picture of actual conditions which has been sketched shows that there has truly been a violation of the essential conditions for the plebiscite, which would justify Peru in refusing to accept the decision; but, as it is the invariable policy of our country to comply with international responsibilities, we will not fail to carry out the Award rendered, notwithstanding the errors which have been pointed out, and in spite of the fact that they so deeply wound the

sentiments of justice which actuate Peru in insisting that Chile by her refusal to hold the plebiscite when it should have been held, in 1894, brought about the nullification of the third clause of the Treaty of Ancon. That clause was unfulfilled by wish of Chile alone, which country has not had and could not show the slightest legitimate excuse for its recalcitrant attitude.

The guarantees which we are about to enumerate specifically, if granted and declared by the Honorable Arbitrator—guarantees which are unanimously required by our national opinion supporting the just desires of the Peruvian population that has been expelled from our provinces, after suffering countless outrages—would respond to the principles of elementary justice. Without such guarantees, the rights of our voters would be destroyed; intimidated by Chilean acts of violence, they would hesitate to return to the land in which they were born. Even today those that have remained still continue to be subjected to the cruelty of oppressors who, by the terms of the Opinion and Award, consider themselves amply justified in continuing the abuses and violence which they have endured for more than thirty years.

The guarantees which the Government of Peru asks of the Honorable Arbitrator, as a condition for assuring the fairness of the voting, are the following:

First: the evacuation of the territories of Tacna and Arica by the Chilean civil authorities, army, *gendarmerie* and police force, who should be replaced by American authorities and forces not only during the plebiscite, but immediately, in order to put an end to the hostilities which are still being carried on against Peruvian inhabitants who still remain in these territories, and to make it possible for the natives who are outside of the territories to return freely, without the fear of becoming the victims of a repetition of the outrages and crimes which have been committed and continue to be committed even after the arbitrator's decision, since it is absolutely necessary for the inhabitants of the said territories to remain free from all moral and material pressure which tends to curtail their personal liberty and their freedom to vote, as is universally established by the doctrines and precedents concerning plebiscites.

Second: that the installation and operation of the Plebiscite Commission be hastened, in order that its high, impartial authority may at once begin to govern the provinces of Tacna and Arica, avoid the continuation of acts of violence, expulsion and internment in the southern provinces of Chile of the Peruvian inhabitants who should take part in the plebiscite, and permit Peruvians and Chileans, on an equal footing, to prepare directly in the disputed territories the conditions for their participation in the plebiscite.

Third: that the time limit for the taking of the plebiscite vote commence to be reckoned from the date of the civil and military evacuation of the provinces of Tacna and Arica, a procedure which is in accordance with the known precedents and very particularly

with that of the plebiscite of Upper Silesia, in which a representative of the United States actually intervened (second and fourth annexes to Article 88 of the Versailles Treaty).⁴⁴

Fourth: that it be declared that Peruvians who have resided in Tacna and Arica for five years and who have been expelled by the Chilean authorities, have not lost the character of residents. The same period is fixed in the Award in treating of residents with a right to vote, and the right to make claims is recognized in similar cases, especially in the plebiscite of Schleswig (Versailles Treaty) and in that of Upper Silesia (fourth annex to Article 88 of the Treaty of Versailles).

Fifth: that the Honorable Arbitrator arrange for the residents to be required to prove the character of the occupation or industry in which they are engaged and from which they gain their livelihood, since this would be the only method of avoiding fraud, which the Government of Peru knows has been perpetrated systematically for several years and continues to be perpetrated at present in Tacna and Arica, in order to give the appearance of the existence of a large Chilean resident population. It is obvious that this requirement should be clearly established because it is the one most likely to assure the honesty of the voting.

Sixth: that it be taken into consideration with reference to the provisions contained in that part of the Award relative to the qualification of voters, by which the right to vote is taken from a person who has been imprisoned by virtue of a judicial sentence for common crimes, that trials for such alleged offenses have for years been instituted by the Chilean authorities, a party interested in the present controversy, on ostensible, simulated and fraudulent grounds, for the very purpose of putting such Peruvians out of the way and incapacitating them from voting in any eventual plebiscite.

These requests do not involve any substantial modification of the Opinion and Award. They concern only such measures as are absolutely necessary for the faithful execution of the plebiscite, which it is indispensable to have declared expressly as the only effective means of guaranteeing the liberty and honesty of the voting in the plebiscite, more particularly in the present case, above all others, because it has reference to a country which for the last thirty years has made our countrymen the victims of the most reprehensible violence. In making these requests, my Government accepts the provisions contained in the second part of the second Article of the protocol of arbitration, which authorizes the Honorable Arbitrator to determine the

⁴⁴The meaning of this statement is obscure. On June 4, 1919, the Council of Four of which President Wilson was a member resolved that a plebiscite should be held in Upper Silesia; on June 14, the Council of Four decided that the plebiscitary period should be from 6 to 18 months (League of Nations, *Minutes of the Extraordinary Session of the Council of the League of Nations, Held at Geneva from August 29th to October 12, 1921, To Consider the Question of Upper Silesia*, pp. 11 ff.). Although annex 2 to article 88 of the Treaty of Versailles provided for an American member of the Plebiscitary Commission, none was ever appointed.

procedure and time limits for the execution of the Opinion and Award.

I have [etc.]

By the Peruvian Defense Commission,
SOLÓN POLO
President

723.2515/1416

The Secretary of State to the Peruvian Ambassador (Velarde)

WASHINGTON, April 9, 1925.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 2nd instant enclosing a Memorial, signed by the President of the Defense Commission of Peru, addressed to the President of the United States as Arbitrator in the Tacna-Arica controversy, and to transmit herewith the ruling and observations of the Arbitrator on the questions presented. I beg to request that you transmit this document to the Defense Commission of Peru.

The ruling and observations of the Arbitrator will be given to the press for publication in the morning papers of Friday, April 10, and I therefore beg to request you to consider this note and its enclosure as strictly confidential until that time. In accordance with your authorization to Mr. White,⁴⁵ in your telephone conversation with him on the 7th instant, the communication addressed to the President on April 2, by the President of the Defense Commission will be given to the press at the same time.

Accept [etc.]

FRANK B. KELLOGG

[Enclosure]

The Ruling and Observations of the Arbitrator

The Arbitrator has had the honor to receive and carefully consider the communication addressed to him under date of April 2, 1925, by the President of the Peruvian Defense Commission, the representative of Peru in the pending arbitration under the Protocol and Supplementary Act signed by the representatives of Chile and Peru at Washington, July 20, 1922. In the course of his communication the President of the Peruvian Defense Commission first, submits the views of the Peruvian Government in regard to the Award of the Arbitrator, second, informs the Arbitrator of certain acts said to have been perpetrated against the Peruvian inhabitants of Tacna and Arica since the date of the Award, and, third, requests certain

⁴⁵ Francis White, Chief of the Division of Latin American Affairs.

guarantees in regard to the conduct of the plebiscite decreed under the Award.

The Arbitrator deems it his duty to make the following reply:

First: The views of the Peruvian Government with respect to the Opinion and Award have been duly noted. The Award was the result of a careful examination of the elaborate record submitted by the parties. This record fully covered all the questions treated in the views now submitted on behalf of the Government of Peru and argued all the questions which it is now sought to reargue. Under the Terms of Submission agreed to by both parties as well as by general principles of International Law these questions have been decided by the Award "finally and without appeal."

This reply well might end here. In deference, however, to the great nations who are the parties to this arbitration, and keeping in mind the importance of a correct understanding of the Arbitrator's Award, and the proper procedure thereunder, the Arbitrator deems it advisable to make certain additional observations.

A large part of the communication now presented to the Arbitrator is based upon a claim of an improper translation of Article III of the Treaty of Ancon, it being claimed that this Article as translated should read "at" and not "after" the expiration of the term of ten years. As pointed out in the Award, the translation complained of is the translation submitted by Peru in her Case, and in the opinion of the Arbitrator fairly interprets the meaning of the passage in question. The problem before the Arbitrator was one of substance—of construction rather than translation, a problem which had been debated by the parties long before this arbitration gave rise to any questions of English translation. It goes far beyond the relatively unimportant and largely academic question of the use of any particular English word in translating the Treaty whether that word be "after", "at", "on", or "upon", all of which are used at various places in the Peruvian documents.

It may also be said that the Award of the Arbitrator is in entire harmony with the practical construction placed upon the Treaty by the parties in their dealings with one another after the expiration of the ten-year period, from 1894 to 1912; the parties repeatedly negotiated for a plebiscite and in 1898 agreed on the terms of a protocol providing for a plebiscite which was not ratified by the Chilean Congress.

The President of the Peruvian Defense Commission suggests that the Arbitrator failed to give weight to the "proofs offered by Peru relative to the expulsions, spoliation of property, acts of terrorism and fraudulent colonization of Chileans on lands of the Peruvians," (page 6 of communication under consideration). There was a large body of testimony submitted by both parties on this subject and the

Arbitrator weighed the evidence with the greatest care but did not find the proofs sufficient on which to base a finding "that a fair plebiscite in the present circumstances cannot be held under proper conditions or that a plebiscite should not be had" (Award of Arbitrator page 36).

Second: The Arbitrator also notes the specific instances of expulsion and oppression which the President of the Peruvian Defense Commission charges have taken place since the rendition of the Award. These charges should be brought to the attention of the Plebiscitary Commission when it shall have been constituted.

The Arbitrator notes with satisfaction that the President of the Peruvian Defense Commission, although expressing the opinion that conditions of Tacna and Arica as described by him "would justify Peru in refusing to accept the decision," gives formal assurance that "as it is the invariable policy of our (his) country to comply with international responsibilities" Peru "will not fail to carry out the Award rendered."

Third: With regard to the various guarantees with respect to the conditions of the plebiscite requested by the President of the Peruvian Defense Commission, the Arbitrator, so far as his formal ruling is concerned, contents himself with the reply already made to the views submitted on behalf of the Peruvian Government, namely, that the conditions of the plebiscite constituted one of the questions submitted to the Arbitrator; that the Award was made after careful consideration of the record submitted by the parties, and that both by the agreement of the parties and under the principles of International Law the Award is final and without appeal.

However, the Arbitrator makes the following general observations:

As already stated, the conditions under which the plebiscite was to be held constituted one of the questions submitted to the Arbitrator. The parties agreed upon a procedure which was approved by the Arbitrator and which gave to both ample opportunity to be heard. Peru, with full knowledge, made no requests even in the alternative for findings in regard to the conditions of the plebiscite while these conditions were *sub judice*—neither the requests she now makes nor any others. Of course, orderly procedure and the agreement under which this Arbitration was held forbid that a party to the arbitration should wait until after the Award is rendered before making requests for findings. Nevertheless, the Arbitrator did not permit the interests of Peru to be prejudiced through her failure to make requests for findings in regard to the conditions of the plebiscite. He considered the whole question carefully and fixed the conditions under which the plebiscite was to be held so as to afford the most ample protection to the rights of both parties to the arbitration.

The Arbitrator furthermore makes the following observations responsive to each of the several requests submitted by the President of the Peruvian Defense Commission:

"First: the evacuation of the territories of Tacna and Arica by the Chilean civil authorities, army, *gendarmérie* and police force, who should be replaced by American authorities and forces not only during the plebiscite, but immediately," etc.

The Arbitrator is constrained to point out that this request goes beyond the scope of the authority of the Arbitrator under the Terms of Submission and the findings of the Award. The Supplementary Act of the Washington Protocol provides that even in the event that the Arbitrator decides that a plebiscite need not be held, "pending an agreement as to the disposition of the territory the administrative organization of the provinces shall not be disturbed." Therefore, even in the event the Arbitrator had held Chile's present possession unlawful, he would have been without power to direct the evacuation of the provinces "pending an agreement as to the disposition of the territory." But the Award on the contrary holds that "the fair construction (of the Treaty of Ancon) is that Chile was to retain possession pending the holding of the plebiscite and that thus retaining possession her administrative authority continued." (Award, p. 20).

The foregoing observations, however, are without prejudice to the exercise of the powers of the Plebiscitary Commission as provided in the Award which are ample to guarantee to every qualified voter full assurance of personal protection as well as the assurance that his vote may be freely cast and will be fairly counted. The Award provides "that the Plebiscitary Commission shall have in general complete control over the plebiscite," and the Arbitrator has named as President of this Commission General Pershing, a distinguished American, who himself embodies every guarantee in his character and personality.

"Second: that the installation and operation of the Plebiscite Commission be hastened, in order that its high, impartial authority may at once begin to govern the provinces of Tacna and Arica," etc.

In so far as this request merely asks that "the installation and operation of the Plebiscite Commission be hastened," the Arbitrator points out that it asks for something which depends, first, upon the action of the Government of Peru alone, and, second, upon the action of the Governments of Chile and Peru. In accordance with the terms of the Award, "the members of the Plebiscitary Commission shall be appointed within four months from the date of the rendition of this Award, and the Commission shall assemble in the City of Arica for its first meeting not later than six months from the date of the rendition of this Award. These times may be changed by the

Arbitrator." In other words, the Award merely fixed a maximum time for the appointment of the members of the Commission. The Arbitrator has already appointed the presiding member of the Plebiscitary Commission, as well as the third member of the Special Boundary Commission. Chile has also appointed her member of the Plebiscitary Commission. It is suggested that nothing stands in the way of the constitution of the Commission as soon as similar action shall have been taken by Peru. The Commission once constituted could arrange to hold its first meeting at Arica as soon as the necessary preliminaries shall have been accomplished by the two Governments.

"Third: that the time limit for the taking of the plebiscite vote commence to be reckoned from the date of the civil and military evacuation of the provinces of Tacna and Arica, etc."

This request is governed by the observations of the Arbitrator on the first request since this request also goes beyond the scope of the authority of the Arbitrator under the Terms of Submission and the findings of the Award in that it is predicated on the "civil and military evacuation of the provinces."

"Fourth: that it be declared that Peruvians who have resided in Tacna and Arica for five years and who have been expelled by the Chilean authorities, have not lost the character of residents."

As heretofore pointed out the Arbitrator in fixing the qualifications of the voters did not have the advantage of having before him requests for findings in that regard on the part of Peru. He nevertheless considered the questions involved with great care in the light of the evidence and arguments submitted by both parties. The various provisions of the Award on this subject are interrelated in a general plan. Compliance with this request is therefore not only impossible because of the finality of the Award but unnecessary and inadmissible because it would involve the revision of a plan which was carefully drafted and which in its entirety in the opinion of the Arbitrator does justice between the parties.

"Fifth: that the Honorable Arbitrator arrange for the residents to be required to prove the character of the occupation or industry in which they are engaged and from which they gain their livelihood, since this would be the only method of avoiding fraud," etc.

It is the duty of the Plebiscitary Commission to consider all the evidence as to the qualifications of voters in order to prevent fraudulent voting. This request should therefore be brought to the attention of the Commission for its consideration.

"Sixth: that it be taken into consideration with reference to the provisions contained in that part of the Award relative to the qualification of voters, by which the right to vote is taken from a person

who has been imprisoned by virtue of a judicial sentence for common crimes, that trials for such alleged offenses have for years been instituted by the Chilean authorities, a party interested in the present controversy, on ostensible, simulated and fraudulent grounds, for the very purpose of putting such Peruvians out of the way and incapacitating them from voting in any eventual plebiscite."

The Arbitrator is not clear as to the precise meaning of this request. The Award provides, p. 42:

"That no person serving a term of imprisonment after sentence for a non-political offense involving moral turpitude . . . shall be allowed to register or vote."

It will be the duty of the Plebiscitary Commission to interpret and apply this provision according to its letter and spirit to the facts of each individual case presented to the Commission to which it is relevant. It is suggested, therefore, that any specific case or cases which are thought to involve the interpretation or application of this provision be presented to the Plebiscitary Commission.

In general, the Award makes the most ample provision for the consideration by the Plebiscitary Commission of all questions involving the qualifications of voters and the prevention of fraud, with a view to insuring to every qualified elector the right to vote. Ample provision is also made for appeal from the Plebiscitary Commission to the Arbitrator.

In conclusion it need hardly be said that only a desire to be of service in bringing about a settlement of a long standing controversy between two great nations with whom the United States enjoys the most friendly relations induced the Arbitrator to undertake this arduous task and that so far as in him lies, acting always within the well defined limits of the Terms of Submission, he will leave nothing undone which scrupulous care and attention on his part can accomplish in securing a fair election and equal justice to both parties.

The ruling which the Arbitrator has felt constrained to make, viz. that the Award is final and without appeal, has rendered it unnecessary to afford opportunity to the Agents of the Government of Chile to present the views of their Government. A copy of the communication of the President of the Peruvian Defense Commission and of this reply is, however, being furnished to the Agents of the Government of Chile.

CALVIN COOLIDGE

Arbitrator

By the Arbitrator

FRANK B. KELLOGG

Secretary of State

723.2515/1488 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

[Paraphrase]

LIMA, April 10, 1925—10 p. m.

[Received April 11—11:25 p. m.]

41. Today I learn from a high source close to President Leguía that in view of the American answer to the Peruvian note, the Peruvian people and the members of Congress which convenes April 13 are generally opposed to participation in the plebiscite, and that the Government feels that it is in the most dangerous situation that it has ever been in. My informant tells me that many of the friends of the Government in Congress have turned against it because it is in favor of participating in the plebiscite, and that, should the Government name a Peruvian member of the Commission, there is danger that a revolution would be precipitated, and if Peru should participate and lose the plebiscite that the President and his supporters would be put to death. President Leguía and the President of the Chamber of Deputies are, nevertheless, determined at all costs to persevere and participate in the plebiscite. I was also told that if all the expelled Peruvians could be induced to return and vote, Peru would easily win the plebiscite, but that their fear of the Chilean military forces is so great in view of what they have suffered that they can not be induced to return to Tacna Arica without more explicit guarantees of protection. My informant also said that it is the popular impression that General Pershing will go to Arica with a civilian staff only, and that as the General does not speak Spanish and will be without adequate force to back up his authority, the Chileans will impose upon him and will have their own way in the plebiscite and in the preparations for it; he concluded by saying that a declaration from some official American source that Peruvians will be protected from outrage in the disputed region would have a most beneficial effect on both popular and governmental opinion in Peru; and that an announcement that General Pershing would go to the provinces accompanied by a war vessel and an adequate military guard to see that the terms of the award were observed and that all voters and the Plebiscitary Commission were protected would have a deeply beneficial influence on Peru's participation in the plebiscite.

I was also told by the same informant that the Joint Committee of Foreign Affairs of both houses of Congress have taken over entirely the conduct of foreign affairs, leaving the Minister for Foreign Affairs without either authority or voice.

POINDEXTER

723.2515/1438 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, April 14, 1925—noon.

29. Your No. 41, April 10, 10 p. m. The Arbitrator's position is stated clearly in his ruling and award of April 9, in reply to the communication from the Peruvian Defense Commission of April 2. The Department understands that text of this note in full was cabled to Lima by the Associated Press. Inform Department if you are unable to obtain copy from the Associated Press and it will be cabled to you.

The award makes most ample provision for consideration by Plebiscitary Commission of all questions involving qualifications of voters and prevention of fraud, with aim of insuring to every qualified elector the right to vote. Also ample provision is made for appeal from Plebiscitary Commission to the Arbitrator. Department must assume that both parties had confidence in good faith of the Arbitrator in submitting question to him. In the ruling and award of April 9, Arbitrator stated that so far as in him lay, always acting within well-defined limits of terms of submission, he would leave nothing undone which scrupulous care and attention on his part can accomplish in according fair election and equal justice to both parties. The Arbitrator cannot continue indefinitely asserting intention on his part to act fairly and to endeavor to see that rights of both parties will be scrupulously observed. Even less could he state that one side will be protected from so-called "atrocities" on the part of the other. If Peru feels her interests are being prejudiced in Provinces of Tacna and Arica, it seems she might well expedite constitution of Plebiscitary Commission by appointment of Peruvian member; Chilean member has been appointed; the President has appointed his member; and there is nothing further that the Government of the United States can do.

KELLOGG

723.2515/1499

Memorandum by the Chief of the Division of Latin American Affairs (White)

[WASHINGTON,] May 8, 1925.

SEAPORT FOR BOLIVIA

The Bolivian Minister, Señor Freyre, called on Friday, May 8, to say that as I was familiar with his endeavors not only as Bolivian

Minister to Chile and as Minister for Foreign Affairs of Bolivia but also in his conversations a year ago with Secretary Hughes to bring about a revision of the Chilean-Bolivian Treaty of 1904, by which Bolivia would obtain a seaport,⁴⁶ he had called to inquire whether the very last word had been said by this Department in the matter. He remarked that considerable change has taken place in the last year by the rendition of the Award in the Tacna-Arica case and he wanted to know whether something could not be done in this matter.

I told Señor Freyre that I felt the situation was the same as it had been when he conversed with Secretary Hughes a year ago; that the policy of this Government was the same as then stated, namely, that it was always ready to be of service to the countries of this hemisphere in composing their difficulties if requested to lend its good offices by all those concerned. I pointed out that in this case Chile had not asked for our good offices and that I might say as my purely personal opinion that I could not see much likelihood that Chile would want to take up any further matters of this sort while it is now so busily preparing for the coming plebiscite in Tacna-Arica.

Señor Freyre then said that there appeared to be two distinct phases of the matter: First. Whether the United States would use its good offices under certain conditions even should one of the parties not have asked for its intervention, and, second, whether or not the present was an opportune moment to broach the question to Chile. He said that the present was perhaps an inopportune moment. He then inquired whether this Government would be prepared after the holding of the plebiscite of Tacna-Arica to use its good offices to bring about a settlement of this matter.

I replied that I of course could not answer a hypothetical question and state just what the attitude of the Department would be at some future occasion all the circumstances of which could not be known at this time. When the moment arrives the Department will have to make its decision in the light of the conditions as they then exist. The Minister thanked me and withdrew.

WHITE

723.2515/1547

The Peruvian Ambassador (Velarde) to the Secretary of State

[Translation]

WASHINGTON, June 18, 1925.

EXCELLENCY: In compliance with instructions from my Government I have the honor to apply to Your Excellency with a request

⁴⁶ See *Foreign Relations*, 1924, vol. 1, pp. 820 ff.

that you kindly place in the hands of His Excellency the President of the United States of America, Arbitrator in the case concerning the Provinces of Tacna and Arica the communication which I append to this note.

I renew [etc.]

HERNÁN VELARDE

[Enclosure]

*The Peruvian Ambassador (Velarde) to President Coolidge*⁴¹

WASHINGTON, June 18, 1925.

TO HIS EXCELLENCY, THE PRESIDENT OF THE UNITED STATES OF AMERICA:

The Government of Peru has duly received the ruling and observations of the Honorable Arbitrator on the appeal presented on March 31, and has decided in accordance with the provisions of paragraph "A" of the chapter entitled "Plebiscitary Commission", page 43 in the original English text of the Award, to appoint a member who on behalf of Peru is to act on said commission and in doing so begs to place the following observations on record:

The Government of Peru considers that the petitions which it has presented do not involve an amendment of the Award nor even a broadening of its terms but simply to enunciate its scope clearly and precisely in the spirit of equity and justice in which the Honorable Arbitrator has acted and in which, it is but natural, a plebiscite will be held, presided over by one who so worthily represents him and his great nation.

Further, the Government of Peru holds that in a decision pronounced in an arbitral suit touching so serious a matter involving as it does the integrity of territory and the sentiment of nationality, one of the parties thereto is not to be debarred from freely and fully exercising every legitimate action in order to defend its rights. Therefore, the Government of Peru does not concur with the Honorable Arbitrator when he asserts that the fundamental petitions in its appeal are beyond the powers of the Arbitrator inasmuch as the arbitral agreement precisely provides that in the event of a plebiscite being declared in order the Honorable Arbitrator is authorized to determine the conditions thereof.

The principle among such conditions is that the absolute freedom and protection of the voters shall be assured as otherwise the provision for a popular ballot called for in Article III of the Treaty of Ancón would be frustrated.

Although the Honorable Arbitrator considers that the plebiscitary commission is sufficient to guarantee a true ballot there can be no

⁴¹ Received by the Department in English only.

doubt that the presence of the authorities and troops of the occupant state would hamper said guarantees with inevitable difficulties and limitations, both as to the prevention of fraud and to avoid and repress violence on the part of the administration in occupation, which it would be practicably [*practically*] impossible to control effectively in such a manner as to prevent it from harming the other party by availing itself of its dominant position to win the plebiscite by unlawful means if needed. The Government of Peru is confident that should this eventuality materialize the authorities and troops of the occupying state would be replaced by those of some neutral administration.

Nor does the Government of Peru concur with the Honorable Arbitrator in his interpretation of the Supplementary Act of the Arbitration Protocol, where from the provision that "even in the event that the Arbitrator decides that a plebiscite need not be held pending an agreement as to the disposition of the territory, the administrative organization of the provinces shall not be disturbed" he deduces that "therefore, even in the event that the Arbitrator had held Chile's present possession unlawful, he would have been without power to direct the evacuation of the provinces pending an agreement as to the disposition of the territory".

As a matter of fact, the relevant article of the Supplementary Act contemplated only the possibility of not changing the administrative organization of the territory in the event that the holding of the plebiscite would be decided against, clearly establishing thus the fact that said administrative organization could be changed should the contrary occur, namely, a declaration that a plebiscite should be held.

The aim of the Peruvian petition is to establish in the territory subject to the plebiscite, a situation of at least relative equity, inasmuch as absolute justice would be an impossibility after the acts of intimidation and terrorism of which the Peruvians have been the victims and which have created a situation *sui generis* in the Provinces and from which, in all fairness, the only way out would have been the return of the Provinces directly to the rightful owner. Such a situation of equity is all that Peru asks for and it is to be regretted that the Honorable Arbitrator, in all his wisdom and who had and has unlimited powers to determine the conditions of the plebiscite, should have considered it convenient not to use as yet precisely the most important of them all, thus placing one of the parties in a dominant position and leaving the other in one of evident inferiority. In view of the foregoing, Peru did not deem it necessary to specifically request, in the presentation of her case, the evacuation of the territory because it relied on the justice of the Arbitrator in the event of the rejection of the Peruvian thesis that a plebiscite would not be in order owing to the time elapsed since it should have been held, and owing

also to the recalcitrant attitude of Chile and to the acts committed by that country against the Peruvian population, that the Arbitrator would impose such conditions for the plebiscite as would tend to compensate Peru for the evident injustices committed against her during the unlawful occupation of her territory.

Our claim for guarantees arises from the unequal position of the two States in the territories in dispute and tends to counteract the effects of the acts of violence and injustice to which one of the parties has made a victim of the other and since the Honorable Arbitrator established other conditions, it would seem reasonable to expect that he would not forget the main feature that stands out above all others in modern plebiscites, namely, that of removing the armed forces of both the interested parties as well as the heads of their administrative bodies.

With reference to our petition regarding the right to vote of those who have been expelled it should be stated that although Chilean and Peruvian residents are apparently on an equal footing, it is a well known fact that the residence of the former has not been interrupted while that of the latter has suffered interruptions at the hands of those interested in eliminating them and who were powerful enough to do so. There is besides the grave circumstance that Chile has been able to introduce into the provinces as large a population as she has seen fit, while on the other hand the Peruvians have been continually expelled, and thus unequal conditions leading to an evident injustice have been created with the result that a Chilean with two years residence prior to July, 1922, can vote whereas a Peruvian born outside the territory of Tacna and Arica and with an equal or even longer residence can not vote simply because the Chilean authorities have expelled him.

As such a state of affairs would cause an exasperating inequality, the Peruvian Government is reluctant to admit that this is the sense in which the Award should be construed and trusts that the Plebiscitary Commission will take a similar view.

The Award admits that expulsions have taken place though not in a number sufficient to warrant a ruling that the plebiscite would be out of order. It declares that it is far from condoning such acts of violence, therefore condemning them, but the logical outcome of such condemnation would appear to have been the provision of such conditions for the plebiscite as would have restored the justice which has been outraged by one of the parties and would to some extent have repaired the harm done to the other. Peru feels, however, that its insistence on this point is now more than ever justified by the fact that since the rendering of the Award, Chile has deliberately and systematically violated the status created by the Award by removing several hundred natives and other Peruvian residents of the Provinces

under occupation and sending them south in order to deprive them of their right to vote in the plebiscite. These removals have been denounced to the Honorable Arbitrator and it should be noted that Chile has not attempted to deny them but simply explains them as a "voluntary exodus of the natives who were attracted by the high wages paid in the nitrate fields", and since this concerns a relatively large number of voters of which the party that wields force within the territory seeks violently to deprive the other, it would appear to be within the right of the Honorable Arbitrator to reestablish the balance thus disturbed, inasmuch as the Washington Protocol has invested him with full powers which he has expressly reserved for himself in the Award.

The Government of Peru with all due respect for the arbitral decision which has been rendered, finds no reason to change the above opinions which have been expressed, and will maintain in its integrity its claim concerning provision of those guarantees which are absolutely indispensable for the holding of a true plebiscite, the execution and results of which will be acceptable to the world at large and which Peruvian citizens may attend on a footing of absolute equality with those of Chile so that the referendum shall express the true popular decision contemplated in the Treaty of Ancon.

It is not to be supposed, and Peru in no way supposes, that it was the intention of the Honorable Arbitrator to deny Peruvian residents expelled by the Chilean authorities the right to vote, as the immediate result of such an interpretation would be to constitute a precedent incompatible with the concepts of justice and leading to a continuation of the acts of violence condemned by the Award.

Moreover, the agreement entered into, empowered the Honorable Arbitrator to decide on all difficulties arising from the unfulfilled stipulations of Article III of the Treaty of Ancon and should the occasion arise, to determine all the conditions of the plebiscite, therefore the present arbitration confers on the Honorable Arbitrator far fuller jurisdiction of powers than the mere deciding of whether the plebiscitary provision is in force or has expired. To sum up, what Peru has sustained and sustains is that the entire plebiscitary process must rest on the strictest principles of international justice and that it would be a painful contrast for the juridic and moral conscience of the peoples of this continent that, if in Europe, which has just immersed [*emerged*] from a devastating war which left in its wake a host of violent passions, the peoples involved in the struggle reacted immediately and rectified their frontiers decreeing plebiscites based upon these precepts, [while] here in free America, without the pressure and passions of a recent war, a plebiscite is decreed which differs but very little from those which were imposed under a regime

of bayonets to disguise the annexations and the conquests of the victorious soldiers of the Napoleonic Wars.

Notwithstanding the foregoing observations which reflect, though imperfectly, the feelings of the Peruvian people, the Government of Peru, whose high sense of duty both for itself and its international obligations has prompted it to accept the Award, takes note of the statements contained in the last communication from the Honorable Arbitrator to the effect that "the foregoing observations, however, are without prejudice to the exercise of the powers of the Plebiscitary Commission", powers which "guarantee to every qualified voter full assurance of personal protection as well as the assurance that his vote may be freely cast and will be fairly counted"; that "the plebiscitary commission shall have in general complete control over the plebiscite"; that [it] will "prevent fraudulent voting"; which [*that it*] has full powers "involving the qualifications of voters and the prevention of fraud"; insisting also that "ample provision is also made for appeal from the Plebiscitary Commission to the Arbitrator", and lastly that the Arbitrator "will leave nothing undone which scrupulous care and attention on his part can accomplish in securing a fair election and equal justice to both parties".

The Government of Peru interprets these statements regarding its requests for guarantees in the sense that the Honorable Arbitrator refers them to the Plebiscitary Commission as the body which is empowered to grant them and which will grant them if they prove to be necessary.

With due consideration of the foregoing appreciations of the matters herein dealt with, the Government of Peru appoints Mr. Manuel de Freyre Santander as its delegate to the Plebiscitary Commission.

The Government of Peru is confident that this decision arrived at, after mature consideration, will be justified by the rigorous impartiality of the proceedings of the Plebiscitary Commission.

I have [etc.]

HERNÁN VELARDE

723.2515/1547

The Secretary of State to the Peruvian Ambassador (Velarde)

WASHINGTON, June 30, 1925.

EXCELLENCY: I have the honor to acknowledge the receipt of your note, dated June 18, 1925, together with its enclosure, a communication of the same date addressed by you to the President, as Arbitrator in the Tacna-Arica arbitration, and to enclose a communication from the Arbitrator, dated June 29, 1925, in reply thereto, for transmission to the Government of Peru.

Accept [etc.]

FRANK B. KELLOGG

[Enclosure]

President Coolidge to the Peruvian Ambassador (Velarde)

IN THE MATTER OF THE
TACNA-ARICA ARBITRATION
JUNE 29, 1925

The Arbitrator has had the honor to receive and carefully examine the communication addressed to him under date of June 18, 1925, by the Ambassador of Peru and notes with satisfaction the appointment of the Peruvian member of the Plebiscitary Commission.

The Arbitrator adheres in all respects to his ruling of April 9, 1925, and is of the opinion that this ruling leaves nothing to be said on his part in response to the present communication of the Government of Peru.

A copy of the communication of the Peruvian Government and of this response is being furnished to the Ambassador of the Government of Chile.

CALVIN COOLIDGE
Arbitrator

By the Arbitrator
FRANK B. KELLOGG
Secretary of State

723.2515/1579 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

WASHINGTON, August 11, 1925—3 p. m.

Department much disturbed by press reports regarding restrictions placed by Chilean authorities on movement of Peruvians in Tacna and Arica and that these restrictions have even been applied to Peruvian officials connected with the Plebiscitary and Boundary Commissions.⁴⁸ Please telegraph immediately substance of all restrictive measures as well as full details of Ordoñez incident.

KELLOGG

⁴⁸ The first meeting of the Plebiscitary Commission was held on August 5, 1925.

723.2515/1585 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, August 14, 1925—11 a. m.

[Received 12:20 a. m.]

From Pershing: Referring to Department's cable of August 11, 3 p. m., to American consul.

1. The restrictions to which the Department referred are embodied in two decrees, one of July 31, the other of August 4. The first decree (1) regulates travel between the cities of Arica and Tacna, restricting it to the railway and the main highway; (2) regulates travel within the Department of Nini, confining it to specified roads; (3) regulates travel to Arica harbor, and [from?] Bolivia, and access to vessels in the harbor; and (4) provides for further regulations by the Government of Arica. The second decree regulates in greater detail travel within the Province of Arica; in substance, it requires inhabitants of rural districts to travel to Arica along the main public road after having obtained permits which are visaed by the police at certain points en route and are taken up at the end of the journey, thus suspending direct transit from one rural community to another. The regulations apply to everyone, but members of delegations are provided with universal circulation cards. The confidential explanation of the Chilean Commissioner is that the restrictions embodied in the decrees are necessary to protect persons and rural property in view of the floating population which the coming plebiscite will bring into the province, but he denies any attempt to control the plebiscite. In my opinion the restrictions are unnecessary and are calculated to make a free and fair election impossible. I have taken up the restrictions informally with the Chilean Commissioner, and unless the matter is adjusted satisfactorily it will be brought before the Commission for action.

The Ordoñez incident was regrettable but not important. Señor Ordoñez,⁴⁹ after having landed once and proceeded to Tacna, returned to the Peruvian transport and then attempted to land again without the circulation card which had been furnished him, and at the pier he was turned back by the police. As soon as the matter came to the attention of the Chilean Commissioner full written apologies were made. Señor Ordoñez has since returned to Tacna, and I regard incident as closed.

2. In regard to the general situation, the Peruvian member of the Commission on August 10 proposed provisions for neutralization of the territory.

⁴⁹ Oscar H. Ordoñez, Peruvian Commissioner on the Special Boundary Commission.

3. Chilean member holds that the Commission cannot even discuss the internal administration of the territory. He offers to consider these matters privately with me but he insists that the Commission is powerless to act. The issue on the Commission's authority must be made soon. There is no doubt of Chilean oppression and intimidation of Peruvians. Members of my delegation have already discovered several cases. The general attitude of the Peruvian population is one of abject fear.

Referring again to the matter of circulation, that is, of travel restrictions, the Chileans hold it to be entirely within their authority, but they will submit decrees to me for suggested changes. The Chilean attitude is very rigid and determined, although they assert that they are ready to guarantee free and fair treatment to the Peruvians. I am trying to keep the proceedings of the Commission confidential in order to avoid public discussion in both countries. Under existing conditions a fair plebiscite is quite impossible and it will be difficult task to bring the parties together, so bitter is the animosity between them. Pershing.

VON TRESCKOW

723.2515/1585 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, August 14, 1925—6 p. m.

For Pershing: Your telegram, August 14, 11 a. m. The Department is greatly disturbed by the conditions you report.

1. Although without opportunity for careful investigation, I am inclined to the opinion that the decrees which you say make a free and fair election impossible violate the decision of the Arbitrator within his authority under the treaty and seem unnecessarily to restrict travel. Plebiscitary Commission is given generally complete control over the plebiscite and, as found by the Arbitrator, that power is sufficient to guarantee full protection to every qualified voter.

2. In regard to your second and third propositions, the original award and supplemental ruling of the Arbitrator on Peru's petition held that the territory was to remain in Chile's possession, that question of evacuation of the territory and the substitution of American authority and forces was not within the scope of Arbitrator's authority, but that this was without prejudice of Commission's power to guarantee full assurance of personal protection and a free ballot to every voter. Provision is made in the award that it may be implied that exercise of Chile's legislative, executive, and judicial power

should not go to extent of frustrating provisions of the award. I incline to opinion that it is within power of the Plebiscitary Commission to decide whether any act of Chile's administration of Tacna and Arica would obstruct fair and free vote, for Chile's administration must not be inconsistent with the Arbitrator's award.

3. I take it that the Plebiscitary Commission will consider these questions. Do you wish me to take any action before matter is decided by Commission and it comes to Arbitrator for decision on an appeal if one is made, or do you wish me to make informal representations to the Government of Chile in endeavor to support your representations to Chilean Commissioner?

4. I should be pleased to have opinion of Mr. Dennis⁵⁰ on these questions.

KELLOGG

723,2515/1587 : Telegram

The President of the Plebiscitary Commission (Pershing) to the Secretary of State

[Paraphrase]

ARICA, August 16, 1925—8 a. m.

[Received 9:30 a. m.]

Department's telegram of August 14, 6 p. m., has just been received and considered. Your statements on the award and the supplementary ruling are precisely as they are understood by Mr. Dennis and me. I do not think it advisable to make definite issue at this time on the points in question, but I shall not hesitate to do so when the time comes. [Modifications?] of the traffic restrictions as we deem necessary are promised. Meanwhile there are confusing reports, accusations, denials. Absolutely necessary for us to determine for ourselves exact facts about conditions throughout territory, and for this purpose we have sent for American assistants from Panama Canal Zone who speak Spanish and who later will serve on registration and election boards. These men will be sent out with clerical force to study conditions. This action taken with approval of both Commissioners. After I receive their reports I shall be able to determine what demands to make to obtain fair and free election. Will hold other questions in abeyance for time being as far as Commission action is concerned. I earnestly request that Department make no representations to either Peru or Chile, or even to intimate that I have made any report on conditions. Time may come later on to take that action, and if it does, I shall not

⁵⁰ William Coy Dennis, general legal adviser to the president of the Plebiscitary Commission.

hesitate to call on Department for all assistance it can give me, but I hope Department will take no action except upon my request. Problem is not one that can be hurried and will require much patient and careful handling. Purpose of my telegram of August 14 was to keep you advised; there would be great danger should Department take action now.

PERSHING

723.2515/1587 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, August 18, 1925—2 p. m.

For Pershing: Your telegram August 16, 8 a. m. I shall follow your suggestions strictly.

After I had received your telegram the Chilean Ambassador called at his own request. I made no reference to him about these specific matters. The Ambassador, however, said that he had heard rumors that the Arbitrator was going to order Chilean military forces out of Tacna and Arica, and that he thought that this action was not within Arbitrator's authority. I replied that it was true that the Arbitrator had found that under Treaty of Ancon the sovereignty and control of Tacna and Arica were to remain with Chile during plebiscite, but that by this was not meant that Chile was to use that sovereign power or her military authority in any way to interfere with a fair and free election, and that in my opinion the President of the Plebiscitary Commission and the Commission had the authority to prevent any action, even of a sovereign nature, which would interfere with a fair and free election; that I had not received any request from you to act, but that if I had I should certainly back you up; that I was much disturbed by reports in the papers on conditions in Tacna and Arica; and that I hoped the Government of Chile would appreciate how important it was that there be no interference with proper elections. Ambassador Mathieu said that he expected us to support General Pershing if his actions were in accordance with his powers. I replied that I was confident that General Pershing had good lawyers, was well advised, and would not ask anything unreasonable.

I did not give him to understand that I had had complaints from you, but that I had gained many very disturbing things from press reports, and that I was not wholly satisfied with attitude of Chile. I thought this would put him on his guard and evidently it did.

KELLOGG

723.2515/1589 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, August 20, 1925—5 p. m.

[Received 10:02 p. m.]

77. Last week rumors reached me that more than a hundred natives of Tacna were detained prisoners here in Santiago in various barracks. I investigated immediately and requested information from Minister for Foreign Affairs. He ordered inquiry and several days later informed me that 120 men who had refused to report for military service had been compelled to report and had been sent to various regiments here to render the required service; that they were not detained, except that no soldier can leave his regiment without being guilty of desertion, and that a list of these men would be given Pershing through the Chilean Commissioner and to you through Mathieu; they would be returned to Tacna for the plebiscite whenever Pershing desires. Shall I communicate this information to Pershing? Minister for Foreign Affairs asserted that he and President Alessandri knew nothing of matter and that the military authorities look upon it as a customary application of the rules of military discipline; nevertheless, I doubt that without my intervention these men would have been allowed to return to the provinces to vote.

COLLIER

723.2515/1589 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

WASHINGTON, August 21, 1925—5 p. m.

49. Your 77, August 20, 5 P. M. The Department is maintaining an attitude of strict impartiality in connection with the Tacna-Arica Arbitration Award and wishes its representatives carefully to refrain from taking any action which might be construed as favoring one of the Parties. You are directed to make no representations to the Chilean Government regarding matters bearing on the plebiscite without previous authorization from the Department.

With reference to the Department's cable No. 47, July 24, 5 p. m.⁵¹ you should forward no information direct to the Plebiscitary Commission. Department has transmitted the information to Pershing.

KELLOGG

⁵¹ Not printed.

723.2515/1606 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

ARICA, September 6, 1925—4 p. m.

[Received September 7—11 a. m.]

[From Pershing:] Have just telegraphed Edwards, who is in Santiago until approximately September 14th, as follows:

"American Embassy, Santiago, September 6, 4 p. m. For Mr. Agustín Edwards. Regret to advise you that situation here is becoming intolerable. Civic organizations appear to have taken matters into their own hands. Several Peruvians badly beaten yesterday. Consider it unsafe for Peruvians. Decided hostility to Americans very much in evidence and therefore all American observers withdrawn from activities. Local authorities seem incompetent or unwilling to keep order. Senior member Chilean delegation denies authority in the premises. Request Chilean Government take immediate action before situation gets entirely beyond control."

I believe that the inflammatory speeches delivered by the Presidents of Chile and Peru since our arrival here partially responsible for the conditions which prevail here and which if continued may render a fair plebiscite impossible. Suggest the advisability of an appeal by the Arbitrator to the two Presidents not only abstain from everything which could increase difficulties of the situation but to lose no opportunity to give calm and pacific counsel to their peoples.

PERSHING

VON TRESCKOW

723.2515/1606 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, September 10, 1925—4 p. m.

For Pershing: Your telegram of September 6, 4 p. m. Department has just received following telegram from Ambassador Collier:

Pershing's telegram to Edwards on intolerable situation in Tacna and necessity for immediate action by Chilean Government was transmitted Monday to Edwards.

Edwards yesterday requested the Embassy to send reply to Pershing, asserting that courtesy required that he reply the same channels employed by Pershing. I consented to send reply merely as medium of communication without my action being regarded as report by me or as implying approval of its contents. Since Pershing's telegram was received, President Alessandri, Mr. Edwards, and the Minister for Foreign Affairs have come to me to com-

plain that the Peruvians have adopted provocative policy deliberately calculated to create disorder, and that General Pershing shows undue sympathy with them and fails to appreciate Chile's right to govern the province. There are bitter complaints against the United States for allowing Americans to form part of the Peruvian delegation and electioneer actively for Peru. This is looked upon as inconsistent with impartiality and as creating the impression that the United States favors Peru. Complaints also made that General Pershing upholds Peru in the publication of a newspaper whose articles slander the power that has right of provisional government and also in its sale by methods which insult Chileans. Alessandri and Minister for Foreign Affairs said that Chile has determined to maintain order but not to yield any advantage which is secured to the occupying power by treaty and is admitted by the award. Both stated that Peru was representing herself as weaker nation in order to win Pershing's sympathies, and was seeking to force the United States to yield to her demands by threats of withdrawal from the plebiscite. Mr. Edwards went so far as to say that Chile would withdraw before she would waive any of her rights, and that this step would be disastrous for Pershing's prestige.

I replied to all of them that I was without specific instructions, but that the impartiality of the United States was beyond question and that the honor of the American Nation required guarantee of fairness to both Chile and Peru; that I could make no report as I had no personal knowledge; that General Pershing could give the Government of the United States full information and that the Chilean Ambassador in Washington was the one to make such representations as Chile wished to make to the American Government; that Chile's right to govern the territory carried with it the responsibility of maintaining order; and that if either Chile or Peru withdrew from the plebiscite, the step would be disastrous for it as it would be condemned by the public opinion of the world.

President Alessandri has telegraphed most emphatically to the *intendente* to maintain order at all costs and to safeguard the rights of the Plebiscitary Commission, of its agents, and of every qualified voter; and he has telegraphed an appeal to civic organizations to refrain from violence and from retaliation for murder of two Chileans allegedly by two Peruvians, and to give the Peruvian voters all their rights, etc. It is said that Alessandri is once more considering advisability of going to Arica and inviting President of Peru to join him there. Collier.

Referring to request in your telegram of September 6, do you, in the light of Collier's telegram, still wish me to make representations through Embassy at Santiago? I feel that his telegram somewhat alters the situation and might make it advisable to wait to see if Government of Chile takes action that President Alessandri has promised Collier would be taken. If you still desire me to make representations, however, shall I cover the whole ground of your message to Edwards and protest against the conditions in Tacna and Arica which you say prevent a fair election, or do you wish me merely to cover matter in your concluding paragraph, that is, to

ask the President of Chile to refrain from making inflammatory speeches, to abstain from anything by which difficulties of situation would be increased, and to lose no opportunity to give calm and pacific counsel to the people. I thought that if, perhaps, I limit myself to this statement, your position might be weakened and Chilean Government will not get the idea that we believe its action will prevent a fair election. In my understanding, however, representations to the President of Peru should merely correspond to last paragraph your telegram. In view of your telegram of August 16, 8 p. m., in which you request that no representations be made without your approval, I hesitate to make any in present instance without your further advice. I suggest also that whatever I do should be done as Secretary of State rather than in the name of the Arbitrator.

KELLOGG

723.2515/1606 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

WASHINGTON, September 11, 1925—7 p. m.

55. You are instructed, whenever a suitable occasion offers, to make it plain to Americans in Chile that this Government hopes they will abstain from all activities tending to favor one side in the Tacna-Arica controversy. Inasmuch as the President of the United States has been chosen as Arbiter, it behooves Americans resident in both Chile and Peru to maintain an absolutely neutral attitude toward this question and avoid all expressions of opinion which may tend to inflame partisan feeling and further strain the existing relations between the two countries.

You will also see that the sentiments of this Government as expressed above are fully understood by the Government of Chile.

Repeated *mutatis mutandis* to Lima.

KELLOGG

723.3515/1613 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Extract—Paraphrase]

ARICA, September 13, 1925—noon.

[Received September 14—10:45 a. m.]

From Pershing:

In view of all that has taken place since my cable to you of August 6, I wish to withdraw my suggestion that you make repre-

sentations to Presidents of Chile and Peru. I deem this action inadvisable at the present time. I deeply appreciate tone of your cable which is most gratifying. Edwards will return to Arica on Tuesday, and some improvement in situation may be brought about by his return. I think it best for you not to take action until later on, when occasion will probably arise as a result of our demands for creation of essential prerequisites to free plebiscite. I shall cable you later on. Pershing.

VON TRESCKOW

723.2515/1613 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, September 18, 1925—6 p. m.

For Pershing: Your telegram of September 13. The Department appreciates efforts you are making to arrange for fair and free plebiscite and has utmost confidence in your judgment and that you will accomplish all that is possible under the very trying and disheartening conditions which confront you.

We must realize that ideal conditions cannot be obtained; that we can only strive to approximate as nearly as may be practicable and not be inconsistent with terms of the award.

You realize, of course, how unfortunate it would be were the Commission to be compelled to withdraw without carrying out its mission, and I hope that the Chilean authorities will be brought to see that interests of Chile demand the plebiscite be held in manner which will convince world that Chile can be relied on to fulfill spirit as well as letter of her international agreements and to accord justice and fair play to her opponents.

KELLOGG

723.2515/1619 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, September 21, 1925—4 p. m.

[Received September 22—12:40 a. m.]

From Pershing: Secretary's telegram of September 18, 6 p. m. The purpose of my letters and cables has been to give you and the Arbitrator as far as is possible a clear idea of the extraordinary and astonishing conditions which confront us here. My statements and

conclusions are based wholly on my own observations and those of my delegation.

The Chileans have pursued methods of violence, intimidation, and deportation, persistently and relentlessly, to the extent that the numbers of the male Peruvians of voting age have been materially reduced in the provinces. The greater part of those who remain are so thoroughly cowed that they fear to acknowledge having Peruvian sentiments. Those who have been forced to leave cannot safely return at this time, notwithstanding any assurances Chileans might give for their personal protection.

It is extremely doubtful to my mind whether it will be possible to create even reasonably fair conditions consistent with the award, but the Arbitrator can rest assured that I shall spare no effort to that end. I should prefer infinitely to see the plebiscite fail and the Plebiscitary Commission withdraw rather than to have our Government be a party to an election conforming to present intentions of the authorities here. So far as concerns me personally it may be understood that I would not for a moment be a party to such a scandal.

I am fully convinced now that neither Department nor Arbitrator could have had anything like a clear conception of situation here when award was written. In light of my investigations, conditions were then same or worse. I quite appreciate serious consequences should the Commission fail to complete its mission; but unless attitude of Chile can be changed and honest assistance substituted for obstruction, then the Commission must fail.

In endeavor to produce improvement in situation I shall present soon to Commission certain demands covering prerequisites for free plebiscite which my advisers are preparing and of which Arbitrator will be informed in advance. Pershing.

VON TRESCKOW

723.2515/1624 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, September 24, 1925—10 a. m.

[Received September 25—3:20 p. m.⁵³]

From Pershing: After careful consideration of the conditions disclosed by such observations and investigations as have been practicable under existing circumstances, I am convinced that energetic action must be taken to create an atmosphere of freedom and fair-

⁵³ Telegram in two sections.

ness that is consistent with fulfilment of the award and essential to the plebiscite contemplated by the arbitration, and I propose to lay before Plebiscitary Commission at early date following resolution:

[Draft not printed; the text of resolution adopted by the Plebiscitary Commission on November 2, differs only in minor textual changes, and is printed *infra*, out of chronological order.]

I and my advisers have given prerequisites embodied in proposed resolution most careful attention. We agree unanimously that fulfilment of these prerequisites or their substantial equivalent absolutely essential to progress.

I am convinced that Commission in adopting the resolution will be acting well within limits of the powers conferred by the award. In this opinion I am supported by Dennis and Kreger⁵⁴ who have prepared a written opinion that has my unqualified approval. Following is synopsis of their opinion: (1) The authority of the Plebiscitary Commission is derived from and limited by the opinion and award of the Arbitrator. (2) The Arbitrator when deciding that a plebiscite was in order held that during the plebiscite the territory should continue in Chile's possession, subject to Chilean law and authority, but that consequent control by Chilean Government is subject to the limitation that Chilean laws and authority shall not be applied so as to prevent the holding of a fair plebiscite. (3) Principle that during the plebiscite period Chilean authority may not be so exercised as to prevent a fair plebiscite would follow as an immediate corollary from the principle that the plebiscite is to be held in territory in Chile's possession as well as the fact that Chilean laws and authority even if limiting principle had not been expressed [*disallowed?*] by Arbitrator. (4) Chile is not only under a negative obligation not to exercise her powers in such way as to prevent a fair plebiscite but is also under positive obligation to exercise her powers so as to render a fair plebiscite possible. (5) The arbitral provision for the international commission to have in general complete control over the plebiscite is inconsistent with any theory that Chile's power to govern the plebiscitary territory during the plebiscite is without limitation. The Commission's control can exist only in derogation of the power of Chile to exercise authority within the plebiscitary territory, and to this derogation Chile consented in agreeing to the supplementary act appended to the protocol of arbitration by which the Arbitrator was empowered to determine the conditions of the plebiscite. Were the authority of Chile unlimited, the Commission could have no control whatever over the plebiscite. The Commission would have no function and there would exist no

⁵⁴ Col. Edward A. Kreger, legal adviser to the president of the Plebiscitary Commission.

reason for its establishment, [apparent omission] inconsistent with the high character of the Arbitrator. The Arbitrator specifically mentioned certain matters requiring regulatory action by the Plebiscitary Commission, in some instances adding instructions as to how the regulatory power of the Commission should be exercised, but manifestly he did not attempt to cover the whole ground and he provided for unknown factors and unforeseeable emergencies by empowering the Commission in broad terms to exercise complete control generally over the plebiscite, thus investing the Commission with the power to deal with everything that is essential to a fair election and equal justice to both parties, subject only to the terms of his opinion and award. (7) The plebiscite looked to by the award is one fair not only in form but in substance. As a corollary it follows that Chile is not entitled to any unfair or inequitable advantage by reason of her right to possess and govern the territory during the period of the plebiscite. Complete control over the plebiscite was given the Commission by the Arbitrator for the very purpose of making certain that Chile should not use possession and control of the territory subject to the plebiscite to obstruct or prevent it. (8) It is well within the powers of the Commission to adopt the proposed resolution setting forth certain prerequisites to a fair plebiscite in Tacna-Arica. Whether the accomplishment of the reforms suggested in that resolution is essential to continuing with the plebiscite is a question of fact addressing itself to the judgment and accomplishments of the Commission rather than being a question of law.

The resolution represents a careful and successful effort not to overstep the line between counteractive checking and forestalling misgovernment, on the one hand, which tends to obstruct or prevent a fair plebiscite, all of which is within the competence of the Commission, and taking over the plebiscitary territory, on the other, which is not within the competence of the Commission. The resolution merely points out some instances where it is necessary for Chile to take such action as will amount to the observance of her obligations to exercise her control of the plebiscitary territory so as not to interfere with or prevent a fair plebiscite but to facilitate one.

Doubtless Chile will contend that the Plebiscitary Commission can not lawfully adopt the proposed resolution by arguing that the award invests the Commission with only the limited powers specifically mentioned in the award and that under the award the Commission is required to formulate at once regulations governing the plebiscite. This position is untenable both practically and legally. A committee to formulate the election and registration regulations

has been constituted but it can neither carry forward nor complete its labors satisfactorily until after the reforms demanded by the resolution have been accomplished.

The resolution will not satisfy the Peruvian member of the Commission because it comes far short of what he believes to be necessary, but I believe that he will vote for it. Its adoption will most certainly be followed by Chilean appeal to the Arbitrator.

New developments taking place before the introduction of the resolution may render certain modifications advisable. I am not committing myself absolutely to the resolution as now cabled, but in the light of my previous communications it will serve to indicate the nature of any modifications that may have to be made on short notice.

I have made the prerequisites as easy for acceptance by Chile as is consistent with progress. If policy of obstruction be continued, the Commission will be compelled more and more to exercise of its latent powers in order to carry out the award. Pershing.

VON TRESCKOW

723.2515/1689

*Resolution Adopted by the Plebiscitary Commission on November 2, 1925*⁵⁵

Resolved by the Plebiscitary Commission, Tacna-Arica Arbitration, That the prerequisites to a fair plebiscite in Tacna-Arica hereinafter enumerated are essential at the present time to further progress in the task with which the Commission is charged, and should be accomplished:

ITEM 1. Removal from the plebiscitary territory of the Army now in that territory, except a force approximately equal to the Army maintained by the Peruvian Government in an area substantially equal in extent to the plebiscitary territory and immediately to the northward, and except any additional force the retention of which in the plebiscitary territory may be deemed necessary by the Chilean Government and the presence of which is not deemed, by the Commission, incompatible with a fair plebiscite.

ITEM 2. Transfer from the plebiscitary territory of the carbineers now in that territory, except a force equal to that on duty in the territory on July 20, 1922,⁵⁶ and except any additional personnel, either retained in the territory or transferred thereto by way of re-

⁵⁵ Copy transmitted to the Department by General Pershing under covering letter of November 7; received November 25. Footnotes have been used to indicate where the text as adopted differs from the draft submitted by General Pershing.

⁵⁶ The original draft provided that the carabineers then in the territory should be replaced by others who had not served therein.

placement, the presence of which is deemed necessary by the Chilean Government and not deemed, by the Commission, incompatible with a fair plebiscite: *Provided*, however, that of the carbineers now in the plebiscitary territory those individuals only shall be retained therein whose retention is not considered, by the Commission, incompatible with a fair plebiscite.

ITEM 3. Transfer from the plebiscitary territory of the police and secret service personnel now in that territory, except a force of each equal to that on duty in the territory on July 20, 1922,⁶⁷ and except any additional personnel, either retained in the territory or transferred thereto by way of replacement, the presence of which is deemed necessary by the Chilean Government and not deemed, by the Commission, incompatible with a fair plebiscite: *Provided*, however, that of the police and secret service personnel now in the plebiscitary territory those individual members only shall be retained therein whose retention is not considered, by the Commission, incompatible with a fair plebiscite.

ITEM 4. Relief of all Army, carbineer, police and secret service personnel from duty as sub-delegates, district inspectors, and in general from duty in any civil executive capacity whatsoever, in the plebiscitary territory; such functionaries to be replaced during the plebiscitary period by civil officials appointed by proper Chilean authority.

ITEM 5. Relief, upon request of the Commission, of each and every public functionary in the plebiscitary territory, military, carbineer, police, secret service, or civil executive,⁶⁸ who, in the judgment of the Commission, has used, is using, or pending the completion of plebiscitary operations shall use his position or powers in a manner designed to repress or prevent legitimate expression of views touching issues to be determined by the plebiscite; each functionary so relieved to be replaced by another appointed by proper Chilean authority.

ITEM 6. Transfer from the plebiscitary territory of every relieved sub-delegate, district inspector, or other civil executive, who is a member of the military, carbineer, police or secret service personnel and is not a native of the plebiscitary territory.⁶⁹

ITEM 7. Removal of all restrictions upon entering or leaving the plebiscitary territory that may be inconsistent with the free return, presence, or departure of persons claiming to be plebiscitary electors, and of such other persons as may desire to engage in any legitimate

⁶⁷ The original draft provided for replacement of police and secret service personnel in the territory by others who had not served therein.

⁶⁸ Here the original draft added "or of any other character."

⁶⁹ In the original draft provision was made for the "departure" (instead of transfer) besides those listed, "of any other character neither a native nor a legal resident of the territory."

form of propaganda, publicity, or other form of electoral activity in the plebiscitary territory, in the interest of either of the two candidates for ultimate sovereignty; and like freedom for press representatives. This shall not be construed so as to preclude reasonable supervision and limitation by the Chilean Government in a manner and for a purpose not deemed, by the Commission, inconsistent with a fair plebiscite.

ITEM 8. Removal of all restrictions upon travel within the plebiscitary territory, and modification of hotel and guest laws and regulations applicable in that territory so that such laws and regulations may not interfere with the freedom essential to a fair plebiscite. This shall not be construed so as to preclude reasonable police and sanitary regulations prescribed by the Chilean Government and not deemed, by the Commission, inconsistent with a fair plebiscite.

ITEM 9. Establishment of equal opportunity and equal protection from molestation or interference for public meetings, parades, addresses, and other forms of legitimate public propaganda touching the plebiscite, as well as for legitimate private discussion of plebiscitary issues, in the plebiscitary territory, irrespective of whether the effort is made in the interest of Chile or in the interest of Peru; and establishment of equal opportunity and equal protection for the display, in the plebiscitary territory, by private persons and by legitimate organizations, of the flag of either of the two candidates for ultimate sovereignty. This shall not be construed so as to preclude reasonable supervision and limitation by the Chilean Government in a manner and for a purpose not deemed, by the Commission, inconsistent with a fair plebiscite.

ITEM 10. Removal of censorship from the cables and of any existing censorship from the press, radio, telegraph, telephone and mails, within, to or from the plebiscitary territory.

ITEM 11. Return to the plebiscitary territory⁶⁰ by Chile at her expense of every man within Chilean jurisdiction who either directly⁶¹ or through the Peruvian Commissioner claims the right to vote in the plebiscite, alleges that he left the plebiscitary territory involuntarily on or after April 13, 1924, and makes a prima facie case, satisfactory to the Commission, of electoral right and involuntary departure.

SECTION 2. That the President of the Commission be and he is hereby instructed to cause an authenticated copy of this resolution to be presented to the Chilean Member of the Commission, and that the Chilean Member of the Commission be and he is hereby in-

⁶⁰ The original draft read "Return to Tacna Arica."

⁶¹ "or indirectly" was here stricken from the original draft.

structed to cause this resolution to be brought to the attention of the proper Chilean authorities.⁶²

The foregoing resolution was adopted by the Plebiscitary Commission, Tacna-Arica Arbitration, on the second day of November, 1925.

JORDAN HERBERT STABLER
Secretary General

Tacna-Arica Arbitration
Plebiscitary Commission
JOHN J. PERSHING
President

723.2515/1624 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, September 28, 1925—6 p. m.

For Pershing: Your telegram September 24, 10 a. m. I have carefully considered with former Secretary of State Hughes⁶³ the legal questions and propositions in your proposed resolution and submit the following for your personal information, not as a ruling of the Arbitrator, but as personal opinion:

1. It is important that the Arbitrator should maintain his position strictly as arbitrator and should not assume any different responsibility. President Coolidge would not have consented to undertake to effect settlement between Chile and Peru by use of armed forces. Forcible intervention for purposes except protection of the interests of the United States and its nationals would not have been within proper exercise of his authority. President Coolidge consented to act as Arbitrator under definite terms of submission. He made his award upon careful examination of the facts, and has thus demonstrated his desire to obtain peaceable and just settlement. If his decisions within scope of the arbitration are not carried out, responsibility will rest with those who obstruct fulfillment of the award and not with him. Course of procedure should be so determined as to make perfectly clear that responsibility, so that all efforts to obscure it would be of no avail.

2. Chile is entitled to possession of the territory in dispute during holding of a plebiscite, and her administrative authority continues

⁶² Section 2 was not in the original draft as telegraphed.

⁶³ Charles Evans Hughes, Secretary of State, Mar. 4, 1921-Mar. 4, 1925, continued to advise and consult with Secretary Kellogg during the period of the plebiscite.

while she thus retains possession. The grounds of this conclusion are explicit in the award. The decision rests upon provisions of the Treaty of Ancon which Arbitrator had no authority to disturb. Right of Chile to remain in possession until the plebiscite is not only derived from construction of the treaty but is supported in terms of the submission to the Arbitrator which provide that, even should Arbitrator decide that a plebiscite should not be held, the administrative organization of the territory should not be disturbed until agreement should be reached regarding the disposition of the provinces. Chile would not have made an agreement divesting herself of possession and administrative authority during plebiscite period, and cannot now be held to a course which would violate her right under treaty and the terms of submission.

3. But Chile's right to continue her administrative authority during the holding of a plebiscite is no clearer than is her duty with respect to the holding of plebiscite itself. Under Treaty of Ancon which, as Arbitrator held, was still in effect, Chile not less than Peru was bound by provision for the plebiscite. This provision manifestly implied fair opportunity for a plebiscite through absence of coercion or intimidation which would frustrate purpose of a plebiscite. The fact that Chile had the right to maintain administrative authority during plebiscite period gave no color of right to permit coercion or intimidation so as to destroy fair opportunity for a plebiscite, but on contrary placed on her the responsibility of exercising her administrative authority in such way as to provide fair opportunity and to protect from intimidation, fraud, and oppression those who were entitled to vote. Chile's very right to retain possession of the territory in dispute is based on her agreement for the plebiscite which implies necessarily use of her authority properly to safeguard it. This duty of Chile's is fundamental, underlying the award and all proceedings under the award for the holding of the plebiscite.

4. As the Governments of Chile and Peru had not been able to agree upon conditions of a plebiscite, the Arbitrator was empowered, should he find that a plebiscite should be held, to establish these conditions for it. Purpose of the submission to the Arbitrator of conditions of plebiscite was manifestly to permit establishment of conditions which would permit fair plebiscite and not merely to define details of a plebiscite which by means of intimidation, coercion, or fraud would be plebiscite in form only and not one in substance and truth as contemplated by the treaty. While Arbitrator was not empowered to deprive Chile of her right under Treaty of Ancon to continue her administrative authority during plebiscite period, he was empowered to require use of that administrative authority for

proper safeguarding of plebiscite in such manner as to prevent coercion, intimidation, and fraud in connection with it. As Chile's retention of administrative authority was conditioned by Treaty of Ancon upon holding of a plebiscite, her exercise of administrative authority until and during the plebiscite was subject to the conditions laid down by the Arbitrator, and these conditions could properly embrace such requirements with respect to her administrative authority as in opinion of Arbitrator were essential to fair opportunity for the plebiscite. It was to this end that the Arbitrator provided that Chile and Peru should enact appropriate legislation for protection of members of the Plebiscitary Commission and of the registration and election boards in discharge of their functions and for apprehension, trial, and punishment of persons guilty of intimidation, bribery, fraud, or other offenses in connection either with registration or with voting, or of interference with the Commission or of the boards or of their members, etc. Not only was Chile bound by her agreement for the plebiscite to use her administrative authority to protect voters against practices of intimidation, fraud and oppression, but also if her existing legislation was inadequate to provide punishment for aforesaid offenses, Chile was required by award to enact such additional legislation as might be needed to meet situation.

5. In defining conditions of the plebiscite, the Arbitrator provided for constitution of Plebiscitary Commission for purpose of securing supervision of plebiscite by competent and impartial authority. The powers of the Commission are derived from the award, which provides that the Commission "shall have in general complete control over the plebiscite." This general provision was not limited by subsequent particularization of certain questions which Commission was authorized to determine. It is right and duty of Commission to deal with any questions which relate to holding of the plebiscite, and necessarily to deal with any questions arising from attempts to interfere with plebiscite by coercion, intimidation, or fraud. The Commission's action in this regard must, of course, be consistent with terms of the treaty. Commission could not require, any more than Arbitrator could require, Chile to surrender her possession or her administrative authority during plebiscite period, but Commission is entitled to require that Chile exercise her authority in such a manner as to protect the plebiscite and take all appropriate measures to prevent abuse of that authority by fostering or permitting coercion, intimidation, or fraud.

6. You must determine, I think, the advisability of proposing this resolution. It depends on state of the facts to which it is addressed; and, in view of your knowledge of situation and in view of investigations which have been conducted under your supervision, I assume

that the conditions are as they are reported and that the resolution is justified. I am of opinion that, subject to reservations stated below, Plebiscitary Commission has authority to make the requirements set forth in the resolution :

(a) I assume that army, carabineers, police, and secret service personnel, referred to in paragraphs 1, 2, 3, and 4 of the resolution, are administrative officers within control of executive branch of Chilean Government. I believe that such officials as those and other administrative officers subject to executive control may properly be subject of the resolution. I question whether resolution should be made applicable to local judges or judicial officers who may have status under Chilean Constitution which would make it impossible for Chilean authorities to comply with resolution. I think care should be taken not to introduce into resolution any officers who are not subject to control of the Government of Chile under the Constitution. I have had no opportunity to examine carefully new Chilean Constitution; brief examination indicates that Constitution promulgated September 18, 1925, promises in substance that judges will remain in office during good behavior, but that the lower judges will carry on respective functions for such time as law may determine. Elsewhere in Constitution provision is made for their appointment by President of Chile. I make this suggestion for your careful consideration.

(b) I also think wisdom doubtful of providing for a determination with respect to "reputation," such as is provided in paragraph 5 of resolution. It seems to me that without putting matter on basis of "reputation," it should be put, with qualifications stated above regarding officers having constitutional status, upon basis of such persons using or having used position or powers they hold in manner hostile to fair plebiscite. Commission would have to get at facts in order to establish reputation and these facts would probably serve purpose in demanding transfer or removal.

(c) In regard to paragraph 10 of resolution which provides for "removal of censorship if any exists," I wonder if it would not be better for Commission to determine whether such censorship exists or not and its effect. Commission could demand freedom from censorship if it has reason to believe that censorship exists.

7. I send this to you personally because Arbitrator should not prejudge any question which may come before him in future. The broad right of appeal exists and Arbitrator may review any action of Commission. It is, of course, obviously important that I should be advised as far as practicable of contemplated proceedings of Commission so that I may advise with you or aid and assist you by representations to the Governments of Chile and Peru if you think that step advisable. There is, I think, a distinction between the

Arbitrator's advising these Governments upon disputed questions which may be presented to him on appeal which may embrace questions of fact, and my recognition in course of diplomatic interchanges of the clear principles laid down by him upon which award proceeds and advisability of these Governments doing everything possible to carry out fair plebiscite.

I should, for these reasons, like to have your views on whether or not you think that the time has come for me to acquaint Chilean Government, through diplomatic channels, with view that while the Arbitrator will render his decisions upon questions that come to him in due course, it is quite inadmissible that Chile, after having invoked the authority of the President of the United States as Arbitrator and after having insisted upon recognition of her administrative authority under Treaty of Ancon during plebiscite period, should attempt to use that administrative authority to thwart a fair plebiscite. This is matter of broad international consequence and I feel there would be ample justification for directing attention of Government of Chile to regrettable character and consequences of such an attitude as it appears to have assumed. If any question of fact is at issue, the Plebiscitary Commission is on the ground and can determine it; but if Chile entertains any idea that she has right to use her administrative authority not only so as not to prevent coercion and intimidation but actually to countenance or to foster them, the Government of Chile should be disabused of this notion.

Arbitrator's award has sustained right to a plebiscite under the Treaty of Ancon and has provided for the plebiscite; and if now Chile thwarts plebiscite by failing to use her administrative authority properly to protect it and by refusing to accede to the reasonable requirements of the Commission for such protection as is required, she will be responsible for all the consequences.

It may be well to have in mind that one of these consequences may be not merely failure of the present plebiscite and ordering of a new plebiscite, but a forfeiture of her right to a plebiscite and with it of any right to the disputed territory; for, as award indicates, one of conditions of Chile's retention of the territory is that a plebiscite should be held, with implication that neither Chile nor Peru should frustrate it. Arbitrator has held that there was not sufficient evidence that Chile had frustrated it, and that plebiscite should be held as stated in the treaty. But if now, with plebiscite ordered and with Plebiscitary Commission on the ground, it appears that the administrative authority of Chile is used in such a way as to frustrate the holding of an appropriate plebiscite and that she refuses to take the reasonable measures essential to that plebiscite, she may

be exposed to the contention that she has forfeited any right to the territory under the Treaty of Ancon.

I am not unmindful of provision in award for the ordering of new plebiscite and this would appear to be appropriate if it appeared that objections which vitiated the first plebiscite were not of such fundamental character as to void agreement for a plebiscite. But if it appeared that Chile's administrative authority had been exercised in way to thwart purpose of the plebiscite or that she had refused to use that authority on request of the Commission in way that would reasonably support a fair plebiscite, the logic of the Arbitrator's award might be turned against her and a court of arbitration might well hold that Chile had been guilty of a prevention of performance of article III of Treaty of Ancon and had lost her rights under it.

Upon the evidence presented to the Arbitrator in the case submitted, he was unable to find Chile guilty of conduct frustrating the plebiscite. The Arbitrator was unwilling to resort to disputable inferences in reaching such a grave conclusion. As he said in the award, the plebiscite furnished an appropriate method of deciding the controversy; but now award for the plebiscite is being carried out, and if the plebiscite under award is prevented by Chile, this conduct can easily be put before the world in light which will take from her all sympathy and will clearly demonstrate impartiality and justice of position of the United States.

Please advise whether you wish me to make representations to the Government of Chile, and, if you do, whether I shall wait until your resolution has been formulated and presented to Plebiscitary Commission. It seems to me, if representations are made, that they should be made at substantially same time your resolution is presented or else immediately afterwards before they are rejected, and should be made on basis of your resolution.

KELLOGG

723.2515/1633 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, October 9, 1925—9 p. m.

[Received October 10—12:50 a. m.]

From Pershing: At the meeting of the Plebiscitary Commission held on October 8, I introduced the resolution which was the subject of my cable Sept. 24, 10 a. m., and suggested that it go over for

consideration at meeting Oct. 10; suggestion was agreed to unanimously.

Today I received a letter from Mr. Edwards in which, after referring to my resolution and to the opinion of my legal advisers, which I read in support of resolution, the Chilean Commission asserts that the gravity of the documents and their unexpected scope make it imperative that he should wait for special instructions from his Government, and he accordingly requested postponement of the meeting arranged for tomorrow. Mr. Edwards closed his letter by saying that although he thought that his Government would be willing to consider any reasonable suggestion to give every qualified voter protection and freedom to which he is entitled, he was sure that it would not surrender, however unfortunate might be the consequences, any of the rights which Chile enjoys under Treaty of Ancon and arbitral award. Among these, he reminded me, was right to full, unrestricted exercise of all the powers pertaining to sovereignty, a right which the Government of Chile was determined to preserve undiscussed and untouched through all the plebiscitary proceedings and which would only be surrendered if and when the vote of the plebiscite shall have decided that it shall terminate.

On receipt of Edwards' letter and in accordance with procedure that the Commissioner of Chile had suggested some time ago and has heretofore obtained, I sent one of my staff to him with request that he call at my residence for consultation with me. He declined to call but said that he would be at home all day.

I have informed Mr. Edwards in writing that I saw no reason for postponing tomorrow's meeting; that it might profitably be devoted to discussion of the resolution, but that resolution will not be permitted to come to a vote at the meeting except with his consent.

At the meeting tomorrow I expect to present results of observation and investigation by me and by my staff, in support of my resolution.

The situation has not improved. Evidence continues to come in of repressive and oppressive activities against Peruvians. Nothing less than is called for by my resolution can be considered as a first step toward further progress with the plebiscite.

I believe that time for representations from the Secretary of State to the Government of Chile has now arrived. Pershing.

VON TRESCKOW

723.2515/1638a : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

WASHINGTON, October 10, 1925—6 p. m.

61. You will please call immediately upon the Minister for Foreign Affairs and the Chief of State and read to them the following statement:

"The Secretary of State of the United States of America has received reports concerning conditions in the provinces of Tacna and Arica which have described the obstacles that exist under present condition[s] to a free and fair plebiscite, in view of the course of conduct of the local Chilean authorities.

It appears to be maintained that the Treaty of Ancon and the Award provide that the territory of Tacna and Arica shall be left in the possession and under the administrative authority of Chile pending a plebiscitary vote to the contrary and this being the case the Peruvians could not be considered on the same plebiscitary status as the Chileans.

Mr. Kellogg desires to point out that while Chile is entitled to the possession of the territory in dispute pending the holding of a plebiscite, and while she thus retains possession her administrative authority continues, the right of Chile to continue her administrative authority pending the holding of a plebiscite is no clearer than her duty with respect to the holding of the plebiscite itself. Under the Treaty of Ancon which, as the Arbitrator held, was still in effect, Chile no less than Peru was bound by the provisions for the plebiscite. This provision manifestly implied a fair opportunity for a plebiscite through the absence of coercion or intimidation which would frustrate the purpose of a plebiscite. The fact that Chile has the right to maintain administrative authority pending a plebiscite gives her no color or [of] right to permit coercion or intimidation so as to destroy a fair opportunity for a plebiscite, but on the contrary places upon her the responsibility of exercising her administrative authority so as to provide such an opportunity and to protect those who are entitled to vote from intimidation, fraud and oppression. Indeed, Chile's right to retain the possession of the territory in dispute is bottomed upon her agreement for the plebiscite which necessarily implies the use of her authority properly to safeguard it. This duty of Chile is fundamental and underlies the Award and all proceedings under the Award for the holding of the plebiscite.

As the Governments of Chile and Peru had not been able to agree upon the conditions of a plebiscite, the Arbitrator was empowered, in case he found that a plebiscite should be held, to establish these conditions. The purpose of the submission to the Arbitrator of the conditions of the plebiscite was manifestly to permit the establishment of conditions which would permit a fair plebiscite and not merely to define the details of a plebiscite which by reason of coercion, intimidation or fraud would be a plebiscite only in form and not one in substance and truth as contemplated by the Treaty. While the Arbitrator was not authorized to deprive Chile of her right under the Treaty to continue her administrative authority pending a plebiscite, he was empowered to require the use of that administrative authority

for the proper safeguarding of the plebiscite and so as to prevent coercion, intimidation and fraud in connection with it. As Chile's retention of the administrative authority was conditioned by the Treaty upon the holding of a plebiscite her exercise of administrative authority pending and during the plebiscite was subject to the conditions established by the Arbitrator. With this in view, the arbitration provided that Chile and Peru should enact appropriate legislation for the protection of the members of the Plebiscitary Commission and the Registration and Election Boards in the discharge of their functions and for the apprehension, trial and punishment of persons guilty of intimidation, bribery, fraud or other offenses in connection with registration or voting in the plebiscite, or of interference with the Plebiscitary Commission or the Boards or the members of the Commission, et cetera (Award P. 49).⁶⁴ Thus not only was Chile bound by her agreement for the plebiscite to use her administrative authority to protect voters from intimidation, fraud and oppression, but if the existing legislation of Chile was not adequate to provide punishment for such offenses, Chile was required by the Award to enact such additional legislation as might be needed to meet the exigency.

It has been the cause of great disappointment to the Secretary of State to learn that the laws have not been administered in such a manner as to give reasonable assurances to the Peruvian voters that they will be unmolested and permitted the free exercise of their suffrage as provided in the Award. In defining the conditions of the plebiscite the Arbitrator provided for the constitution of the Plebiscitary Commission for the purpose of securing the supervision of the plebiscite by competent and impartial authority. The powers of the Plebiscitary Commission are derived from the Award. This provides (p. 44)⁶⁵ that the Plebiscitary Commission 'shall have in general *complete control* over the plebiscite.' This general provision was not limited by the subsequent particularization of certain questions which the Commission was authorized to determine. It is the right and duty of the Commission to deal with any questions which relate to the holding of the plebiscite, and necessarily to deal with any questions which arise as to attempts by coercion, intimidation, or fraud to interfere with the plebiscite. The Commission is entitled to require that Chile shall exercise her authority in such manner as to protect the plebiscite and shall take all appropriate measures to prevent the abuse of that authority by the fostering or permitting of coercion, intimidation or fraud.

In expressing the most earnest hope that the Chilean Government will not only issue adequate instructions for the conduct of Chilean officials in the Provinces in dispute but will also see that they are faithfully carried out in order that a free and fair plebiscite as contemplated by the Arbitrator's Award may be effected, Mr. Kellogg desires to add that it is quite inadmissible that Chile after having invoked the President as Arbitrator, and having insisted upon a plebiscite and upon the recognition of her administrative authority under the Treaty pending the plebiscite should attempt to use that administrative authority to thwart a fair plebiscite. It is hardly

⁶⁴ *Ante*, p. 338.

⁶⁵ *Ante*, p. 334.

necessary to allude to the regrettable situation that would arise should the Plebiscitary Commission formally find, and the Arbitrator, on the matter coming before him, should be compelled to hold, that, on account of the action of the Chilean authorities in opposition to the terms of the Award, a free and fair plebiscite could not be held.

The Secretary of State has also been informed that, in connection with the work of the Special Commission on Boundaries, not only were adequate penalties not being meted out to those officers guilty of molesting Peruvians connected with the Boundary Commission but also that adequate measures were not taken to see that they did not recur. Conditions were such that the Peruvian members of the Commission were finally obliged to withdraw until the situation should be remedied. Under the terms of submission the Arbitrator was empowered to determine the claims pending with regard to Tarata and Chilcaya, that is, to determine the northern and southern boundaries of the territory in question. The Award of the Arbitrator sets forth his decision as to the principle which should govern the delimitation of the boundaries. The Arbitrator reserved the power to appoint a Special Commission to draw the boundary lines of the territory covered by Article III of the Treaty of Ancon in accordance with the Award. As the Arbitrator had the authority to determine these boundaries, and it became necessary for the purpose of this determination to ascertain the Peruvian provincial boundaries of Tacna and Arica, it was competent for the Arbitrator to provide for an agency to make investigation, draw the actual lines and report. The Special Commission is the agency constituted for this purpose. The Arbitrator is still in control of the proceeding; his work as Arbitrator is not finished and will not be finished until the boundary lines are fixed. It was for this reason that the Arbitrator reserved the authority to pass upon the report of the Special Commission or to appoint a new Special Commission and pass upon its report in like manner. Interferences with the Boundary Commission, or its members, representatives or employees, while prosecuting their work under the Arbitrator's Award are interferences with the Arbitrator. They are interferences with the discharge of the Arbitrator's duty and with the exercise of his authority under the terms of submission. Where such interferences occur in territory under the Chilean administration, it is the obvious duty of the Chilean Government to afford redress and prevent their recurrence by the proper action of the authorities. If the Chilean Government should not do this, if it should fail to afford protection to the Special Commission, its representatives and employees, while they are at work under the decision of the Award in territory under Chilean administration it would subject itself to the responsibility of interfering with the Arbitrator and of violating the essential conditions of the submission to arbitration. The Secretary of State desires to express his confidence that the Chilean Government will not be willing to disappoint the expectation of the just settlement of the long standing controversy through the agreed submission to the Arbitrator and will readily appreciate the importance of taking such action, in the discharge of its administrative responsibility, as will assure a fair and free plebiscite, as contemplated by the submission to arbitration and the Award, and adequate protection to the Special

Commission on Boundaries, its representatives and employees, in the performance of the task assigned to it."

You may leave a copy of the above statement with the Minister for Foreign Affairs and the Chief of State should they so request. At the same time you may orally call to their attention that one of the consequences of a persistence of the Chileans in their present attitude may be not simply the failure of the present plebiscite and the ordering of a new plebiscite, but a forfeiture of Chile's right to a plebiscite and with it of any right to the disputed territory. For as the Award indicates, one of the conditions of Chile's retention of the territory is that a plebiscite should be held with the necessary implication that neither party should frustrate it. The Arbitrator has held that there was not sufficient evidence that Chile had frustrated it and that the plebiscite should be had as contemplated by the Treaty. But if, now, with a plebiscite ordered, and with the Plebiscitary Commission on the ground, it appears that the administrative authority of Chile is used so as to frustrate the holding of an appropriate plebiscite, and that she refuses to take the reasonable measures which are essential to such a plebiscite, she may be exposed to the contention that she has forfeited any right to the territory under the Treaty.

I am not unmindful of the provisions of the Award for the ordering of a new plebiscite (p. 49) and this would be appropriate if it appeared that the objections which vitiated the first plebiscite were not of such a fundamental character as to discharge the agreement for a plebiscite. But if it appeared that the administrative authority of Chile had been exercised so as to thwart the purpose of the plebiscite or that she had refused to use that authority on the request of the Commission in a way that would reasonably support a fair plebiscite, the logic of the Award of the Arbitrator might be turned against Chile and it might well be held that she has been guilty of a prevention of the performance of Article III of the Treaty of Ancon and had lost her rights thereunder.

Cable immediately when this message is delivered.^{66a}

KELLOGG

728.2515/1634 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, October 12, 1925—6 p. m.

For Pershing: I called in Chilean Ambassador today and read him my telegram to Ambassador Collier of Oct. 10, 6 p. m. Amba-

^{66a} Telegram not printed. The statement was read on October 13 to the Foreign Minister, the Vice President, and the Under Secretary for Foreign Affairs.

sador Mathieu agreed with construction of award and its legal effect as stated to Collier by me in telegram referred to, and expressed gratification that I had authorized our Ambassador in Chile to make such statement to Minister for Foreign Affairs. He then said that it was his opinion that trouble had arisen from Peruvian agitators on the *Ucayali* who had fomented trouble, and that great mistake of Chileans had been to respond in kind, and that they had done so fourfold.

Ambassador Mathieu then said that in present political situation in Chile, for Government to withdraw the Chilean forces from the province would be very difficult if not impossible. The civil parties had at last all agreed upon a single candidate for Presidency.⁶⁶ Candidate of the military party had been withdrawn, showing that Chile is succeeding in subordinating military to civil control. But situation is still very delicate and military would deeply resent action of withdrawal as reflection upon them; he felt that precisely same end could be reached by keeping army in the provinces but by confining them to their barracks; then they could cause no difficulty.

The Ambassador referred to the carabineers, police, etc., stating that trouble lay not with individuals of minor rank but with those higher in scale. He named two who were certainly implicated in what had been taking place, and said that while they are good fellows, they are only second- or third-rate men, and desired to acquire credit for themselves by winning plebiscite. He thought that if Chilean Government would remove them and appoint first-rate men in their places who would have respect and confidence of all concerned, trouble from minor officials would immediately cease. The very fact that first-rate men should replace two high provincial officials would show minor officials they would have to change their tactics, and new appointees on taking office would also make fact plain to them. He said that of course these men could not be thrown out of office in brutal sort of way, but should be permitted to resign as of own volition stating that as they had lost confidence of Peruvians and of American Commission they did not wish to stand in way of well-known desire of Government of Chile to carry out free and fair election, and for that reason tendered their resignations.

The Ambassador said he had already made this suggestion to Chilean Government, and that the Government had appeared favorable to it; he said he would reiterate his views and would suggest that Edwards make his proposal along above lines to you in answer to and as counterproposition to your resolution. He said that on

⁶⁶ President Alessandri had resigned from office on October 1, 1925.

hearing from Santiago that Edwards would do so, he would suggest that you give matter most careful consideration. I said that I should be glad to do so.

I am transmitting this information to you before hearing from Ambassador Collier, as I wish to afford you ample opportunity to think matter over. It seems to me that Mathieu's proposal offers possible way out. I am not familiar with conditions in provinces, of course, and am not able to say whether this will give necessary assurances that free and fair election be carried out. If it is your opinion that proposal gives necessary assurances, I feel it would be well to accept suggestion. Fully appreciate that Chilean Government should have acted on own initiative several weeks ago. If Government acts at this time, however, it will be because resolutions you presented have had necessary effect in making it clear you cannot be swerved from your course, and my telegram of Oct. 10, 6 p. m., will have shown Chilean Government that I consider your position legally sound. For these reasons, I feel that if aim can be accomplished by palatable means, we shall gain in harmony and in peaceful and unobstructed carrying out of plebiscite by accepting Mathieu's suggestions.

Foregoing is solely for your information and no mention should be made to either Peruvian or Chilean Commissioners. I do not know, of course, what action Government of Chile will take on Mathieu's recommendations.

KELLOGG

723.2515/1642 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, October 14, 1925—6 p. m.

[Received October 15—1:17 p. m.]

From Pershing: Secretary's telegram October 12, 6 p. m. Agreement of Chilean Ambassador with your construction of award and its legal effect may indicate attitude of Government of Chile, but this view has not yet found expression here through Chilean representatives. Commissioner Edwards takes ground that Plebiscitary Commission does not have the authority which seems perfectly clear in your construction. The Commission has not met since October 10, and I shall give Edwards a reasonable time to receive instructions from his Government. Ambassador Mathieu is wholly misinformed in placing cause of trouble on Peruvian agitators from the *Ucayali*. Insofar as I am informed, Peruvians have in no instance provoked disturbances; but whenever Peruvians, with exception of officials, have attempted to

come ashore or to visit their families or to circulate among their fellow countrymen almost invariably they have been attacked and beaten up. Usually the Chilean police have stood by in apparent approval. In the greater number of these assaults Peruvians have made complaints before Chilean police courts, but in only one case has the Chilean offender even been brought to judgment, and his fine was quite inadequate. No Peruvian would dare to provoke a disturbance for fear of his life. Assertions similar to those made by the Ambassador are constantly made here by Chilean authorities but are made merely to shift blame. . . . Our investigations have proved that there have been 81 expulsions or deportations since publication of the award, 5 of them on very day of my arrival in Arica; there is also convincing evidence that at least 87 others were deported on or about March 5. Responsibility for these deportations and other unlawful acts rests on Chilean Government. . . .

The Ambassador's suggestion that Chilean troops be confined to barracks instead of being removed from the province is quite inadequate to meet situation. Impossible to apply suggestion for necessary period and I would not trust promise to keep troops confined unless they were under neutral guard. The presence of the troops is dangerous menace to fair and free plebiscite; their removal will serve as outward and visible expression of change of conditions. Responsible party cannot be allowed to plead opposition of army itself, in order that this necessary prerequisite may be avoided.

There are now four times the number of carabinieri here that were in the province less than two years ago. The number of policemen has also been largely increased. These forces together with present civil officials throughout the territory have with practically no exceptions been involved in work of deportation, coercion, and intimidation. The ratio of the combined forces of army, carabinieri, and police to males over 20 years of age in the territory is one to six.

Removals must be publicly announced and carried out to convince absent voters that it will be safe to return. . . .

The demands contained in my resolution must, I think, be regarded as minimum and any material modification cannot be accepted. They are necessary to give assurance on Chile's part of purpose to hold free plebiscite and to satisfy Peru that that is our purpose. They are also necessary to remove as far as possible the agencies and the conditions which have contributed to the present reign of terror. Further demands may be made from time to time in assuring free and fair plebiscite. Any substantial modification of position we have taken would destroy usefulness of Plebiscitary Commission and make free plebiscite impossible. Pershing.

VON TRESCKOW

723.2515/1642 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, October 17, 1925—3 p. m.

For Pershing: Your October 14, 6 p. m. I have considered the whole matter very carefully. I do not desire to condone any acts of oppression and violence which tend to destroy fair plebiscite, and any suggestions made in course of conversation with Chilean Ambassador were not made with that intention. I had not heard from Mathieu in reply to my note to Government of Chile, so I sent for him this morning and discussed entire question with him. I read him Collier's message to me which was repeated to you in my October 15, 11 a. m.,⁶⁷ and said that I did not think that Mr. Edwards had made proposed suggestions to you. I did not read him your telegram of October 14, 6 p. m., but told him that we had wholly reliable information of acts of oppression and coercion, as you had reported, and that my information was not received from Peruvian sources. I put it very strongly to him that Government of Chile must give protection necessary to fair plebiscite and should comply substantially with demands you set forth in your resolution, of which Mathieu had a copy; that both Chile and Peru had urged the President of the United States to accept the arbitration; the President had given his decision; the legal position in my note to Government of Chile was undeniably correct; it was inadmissible for Chilean Government now to obstruct election by means I had narrated. I did this in the hope that he would urge his Government to comply with your request.

Not being on the ground I am unable of course to judge of necessary measures which must be taken to insure fair election. My only desire is to call your attention to very great importance of carrying out plebiscite. The Tacna-Arica question had been a long-standing dispute and a menace not only to the peace of Chile and Peru, but also to the peace of South America, and failure now will be not only of vital concern to both countries but may involve them in serious conflict. Not only are future interests of those two countries involved, but those of South America generally. I feel very strongly that while interest of this Government is primarily to aid in settlement of this most difficult question, it is most important that you should not withdraw from plebiscite and should take every reasonable means to prevent either Chile or Peru from withdrawing, but if anyone is to withdraw it should be one of the other two nations. Your withdrawal would place this Government in most

⁶⁷ Not printed.

embarrassing position and would give Chile opportunity to assert that we are responsible for the failure. Without condoning any offense, every effort should in some way be made to arrange with Chile's Commissioner for necessary protection in carrying out election, and careful consideration should be given any reasonable proposals.

Rather than to withdraw, suggest for your consideration and as last resort that, should resolution be adopted by majority of the Commission and Chile refuse to appeal but nevertheless continue to oppose thereby creating situation requiring attention of the Arbitrator, he might under the first paragraph of subdivision D of the award entertain an appeal on his own motion. If Arbitrator should determine that under the conditions Chile refuses to take measures to afford proper protection to insure fair plebiscite, Chile, by thus thwarting plebiscite and breaking condition on which she remained in possession of the territory, would incur forfeiture of the territory. While Arbitrator held that Chile's acts had not been sufficiently proved to justify him in holding that Chile had forfeited her right, if the Arbitrator again has question before him on the evidence relating to plebiscite directed by the award, his determination would be conclusive as to very foundation of Chile's right of possession. I doubt that Chile would be willing to face such very serious outcome. I think Ambassador Mathieu will cable his Government strongly urging it to take action, but whether Government of Chile will go to full extent of resolution I am unable, of course, to say. In meantime I shall lose no opportunity to press on Chilean Ambassador necessity for proper action. I think most careful consideration should be given any reasonable suggestion of Government of Chile and I am sure you will appreciate gravity of situation.

KELLOGG

723.2515/1644b : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, October 19, 1925—7 p. m.

For Pershing: Ambassador Mathieu called on Mr. White at the Department this afternoon, and stated that Señor Barros Jarpa entered upon his duties as Minister for Foreign Affairs last Thursday; he is in complete agreement with Mathieu's point of view and has given Edwards instructions to comply with substance of your resolutions. Army will be reduced to number you ask, or even fewer. Ambassador stated that term of service of most of conscripts in Arica Province expires November 1, and that they will then be dis-

charged from service and sent out of the provinces. Their places will not be filled by others. Administrative arrangements of similar nature will be taken to reduce carabinieri and police force. Full text of Edwards' instructions have been sent Mathieu who will show me copy as soon as decoded. I shall advise you after seeing them.

I am sure you realize as well as I the importance of making any arrangements which will spare *amour propre* of both parties concerned in arbitration. Neither Department nor Arbitrator wishes to humiliate either party but does wish to obtain a fair election. Your resolutions have had their effect in bringing about desired action. Any arrangement which accomplished aim sought and spares feelings of either party is most desirable. I feel sure that Chilean authorities now fully understand situation which they had apparently not appreciated before, and for that reason I suggest that any action on part of either of the parties to dispute that you may deem necessary be submitted informally to that party, and that it be given ample time for compliance as of its own volition before matter is formally submitted to Commission.

The Chilean Ambassador said that he understood resolutions will be brought to vote on October 21 and he expressed hope that if Edwards asked for postponement of two or three days it would be granted. I think it would be well to accede to this request.

KELLOGG

723.2515/1657 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, October 25, 1925—1 p.m.

[Received October 26(?)—11:55 a.m.]

From Pershing:

(1) Edwards came to see me on the evening of October 19 to discuss in general way substitute resolution he is preparing. He insisted that any recognition by Government of Chile of authority of Plebiscitary Commission as we understand it would be impossible and that Chilean Government would not agree to it. I took direct issue with him and said that that recognition must be accorded and question must be decided very soon. After some further talk he became quite confidential and said that he thought plebiscite as contemplated by our construction of award was entirely impossible, that for some time he had been of this opinion, and that he had telegraphed his Government apprising them of his opinion. He said he did not mean any reflection personally, and that if he were in my place he

would do exactly as I was doing. Continuing, he said that it would make no difference how many officials it might seem necessary to remove, their places would have to be taken by Chileans and that all Chileans were alike in attitude toward Peruvians. He pointed out that I had seen conditions here and could judge for myself, and that Government could not control Chilean sentiments as they were outgrowth of the past 45 years' relations between the two peoples. He said no Chilean carabineer or policeman could be expected to intervene in favor of Peruvians against his own people. He repeated with emphasis that it was an impossible situation. He thought it possible to postpone plebiscite 6 months to see if there might not be some other way to settle differences and suggested that he, Freyre, and I might be designated by our Governments to discuss matter here and try to find a solution.

I then said that if plebiscite were found impossible someone would probably be held responsible and I asked him whether his Government would accept whatever blame might attach to such a finding. He answered that it would be unnecessary to blame anyone as situation was inherent in very nature of things. He suggested that I approach Freyre and I said that I would think it over.

On October 21 I called to see him on another matter, but broached the subject only to say that it did not seem expedient for me to speak to the Peruvian Commissioner, and suggested that Chilean Government might take it up with the Secretary of State. He made no reply but he said that we were coming to a deadlock, and that his Government intended to adhere to its view on questions of Commission's authority, and at next meeting he would state his legal position and propose motion in substitution for mine which would make no reference to Commission's authority. He said that Chileans would not appeal to the Arbitrator, and a deadlock would be created which I would have to report to Arbitrator who would then have grounds for suggesting conversations between Chile and Peru with view to settlement outside plebiscite. Edwards said he felt they were building up a good case. I expressed no opinion except to say that if situation was as he had outlined it and as it appeared to be, a plebiscite would be well-nigh impossible.

(2) Chile has not made any serious effort on her own initiative to create situation in which plebiscite could be held. On contrary she is actively engaged in effort to make plebiscite impossible through continuation of methods reported again and again. I send résumé of Edwards' statements in paragraph (1) above merely for Secretary's information as indicating course Government of Chile may follow. No reference should be made to this cable in communications to Chile

or to Ambassador at Washington, nor to fact that conversation reported has been held between Edwards and me.

At yesterday's meeting of Commission, Edwards' statement seemed to lay foundation for action he had outlined to me in foregoing conversation. His proposals were so far short of anything adequate as to be entirely unacceptable, especially as they refuse to recognize authority of Commission and show no sincere attempt to meet demands. Commission meets again tomorrow. Pershing.

VON TRESCKOW

723.2515/1658 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, October 26, 1925—4 p. m.

For Pershing: This morning Peruvian Ambassador handed me memorandum⁶⁶ stating that your reports before Plebiscitary Commission at meetings of October 8 and 10 have fully proved Peruvian contention of intense hostility of Chilean authorities and that situation has fully justified Peruvian request for guarantees and has served as basis for your resolutions. Government of Peru thinks guarantees are not enough and that neutralization of the territory which was asked by the Peruvian Commissioner on August 10 should at once be decided upon. Peru would, however, be disposed to accept your resolutions on recognition of their preliminary character and with understanding that, as they show themselves to be insufficient, request for complete neutralization made by Commissioner Freyre will be granted. The memorandum concludes by saying that Peru agrees to this course as proof of wish to be conciliatory and to cooperate in execution of plebiscite, but without in any way changing policy which she firmly decided to follow of taking part in plebiscite only if wholly legal and correct and with as full and efficient guarantees for Peruvians as for Chileans. I presume Freyre has handed you a copy of memorandum so I am not cabling text. I told Ambassador Velarde that you were on the ground and that we relied on you to say what guarantees are necessary; and that, as he had already been informed, Arbitrator has not power to take over policing of provinces but that you and this Government are determined to do all that is possible to carry out fair and free election.

KELLOGG

⁶⁶ Not printed.

723.2515/1659 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

[Paraphrase]

LIMA, October 27, 1925—11 a. m.

[Received October 28—10 a. m.]

75. President Leguía and people of Peru are confident that General Pershing holding deciding vote on the Plebiscitary Commission will proceed to hold the plebiscite under fair conditions, as he has recently set forth, with complete protection of all voters. Suggestion of compromise coming from our Government at this time, either independently or acting as intermediary submitting propositions made by Chile, would be distinct shock to Peru, would be misunderstood, and would cause much resentment. Proper channel for such suggestions seems to be from Edwards to Freyre, between whom, I assume, good personal relations exist. In my opinion there need not be any difficulty in people of the two provinces living under one government justly administered.

The universal interest of the Peruvians in the question is based on principle and sentiment rather than on the intrinsic value of the provinces; and a division of the provinces such as that reported as proposed by Chilean Minister for Foreign Affairs would not solve question, and I do not believe that Peruvian Government would consider it. The Chilean Minister for Foreign Affairs is quoted in Chilean papers as repeating the statement he had made heretofore that article III of Treaty of Ancon was merely intended as a "stipulated cession" of the provinces to Chile. It is this attitude of Chilean Government which is resented in Peru, and which it is believed governs Chile's attitude towards the plebiscite.

I am of opinion that reports on remarks General Pershing as well as other members of the Commission are alleged to have made, should be received with caution. The award provides that it may be implied that exercise by Chile of legislative, executive, and judicial power should not go to extent of frustrating provision for a plebiscite and that the Plebiscitary Commission have been placed in general in complete control over plebiscite. Should one member of Commission withdraw, award provides for filling the vacancy. Any suggestion from our Government at this time which could be construed as seeking to evade this responsibility practically vested in the President of the United States would greatly injure prestige of our Government in Peru and, I believe, in other countries as well. On the other hand, to adopt such measures as may be necessary to support authority of President of the Commission would greatly enhance prestige of the United States in general everywhere and in particular would bring about lasting settlement of the Tacna-Arica question.

POINDEXTER

723.2515/1660 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Extract—Paraphrase]

ARICA, October 27, 1925—3 p. m.

[Received October 28—12:48 p. m.]

From Pershing: Referring to diplomatic settlement of Tacna-Arica question, when Chilean Commissioner returned from Santiago he was very positive that his Government would not consider division of the territory; Peruvian Commissioner was very doubtful whether Government of Peru would ever consider division; and so discussion was dropped. During course of conversation with Freyre in August he expressed opinion that situation might arise when Arbitrator could say that plebiscite was impossible and could then suggest diplomatic settlement. Between that time and present, change in plebiscitary situation has no doubt raised Peruvian spirits. Situation and probable outcome as I have reported them and as Edwards has frankly stated in conversation, seem fully appreciated by Government of Chile, as proposition to compromise indicates. Chilean attitude toward plebiscite no doubt partially due to serious difficulty Chile would find in yielding to our construction of award, and she does not care to face consequences of refusal to accept that construction. It is unlikely, however, that Chile will go much further in plebiscite, and certainly she will not unless she can retain sufficient control to assure her of victory.

After careful study and consideration of situation confronting us here, I am forced to conclusion that, with Chile in control of local government, establishment of conditions favorable to holding of plebiscite having even semblance of fairness is impossible. If any reasonable basis can be found by Arbitrator upon which to abandon plebiscite and initiate diplomatic negotiations, it would be wise to adopt it as best way out of dilemma. Regardless of my own convictions on situation, Arbitrator may rest assured that I and my advisers will continue most earnest efforts to complete task assigned us.

Pershing
VON TRESCKOW

723.2515/1660½ : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, October 29, 1925—5 p. m.

For Pershing: The Chilean Ambassador called at Department today and left copy of instructions he had received from Chilean Minister of Foreign Affairs which is in substance as follows:

Popular feeling in Arica is excited and ripe for a rupture. This state of mind is caused by General Pershing's suggestion to reduce number of troops in way considered vexatious. This is also sentiment in Chilean delegation. If immediate instructions were given to accept, no matter under what reservations, General Pershing's plan would have unpleasant effect on populace, and without doubt would have bad effect on timid or wavering element in province. It seems advisable to Chile to employ time as factor in directing her action in Arica or to afford opportunity for opening way to conciliatory solution. Government of Chile proposes to call Edwards to Santiago and in consultation with him there to seek conciliatory solution. The Government of Chile needs an assurance that during Edwards' stay in Santiago, session of Commission will not be called, and Mathieu was instructed to ascertain if suggestion to this end could be made to Pershing by Department. In meantime, Chilean Minister for Foreign Affairs was willing to give some practical evidence of accepting guarantees by making some changes in provincial authorities and by reductions in number of carabineers and police force. He desired immediate answer from Mathieu as Pershing had intimated advisability of meeting on Saturday.

Mathieu requested that I suggest to you that you give assurance asked for, and that he thought Edwards would not be absent more than 10 or 12 days. He said that Minister for Foreign Affairs has precisely same view as he himself holds, that your resolutions must be complied with, but that Barros Jarpa has not yet been able to bring Edwards around to it.

This is reason why he is sending for him to come to Santiago, and he hopes that outcome of Edwards' visit there will be clarification of situation. The Ambassador was informed that I could make no promises whatever, that you were on ground charged with carrying out plebiscite, and that you are the one in position to judge what is necessary. Only thing I could promise would be to transmit Minister's telegram for your consideration.

KELLOGG

723.2515/1663 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, October 29, 1925—8 p. m.

[Received October 30—11:45 a. m.]

From Pershing: Edwards called on me this morning and reasserted position of Chilean Government on statement I made before Commission on reduction of troops by discharge of conscripts. I had stated that Chile should reduce proportionate number of officers and noncommissioned officers, announce that she was making reduction herself in order to demonstrate desire for free plebiscite, discharge native-born Tacna-Aricans and return others, and move these troops in public manner and notify Commission of the proposed movements.

Edwards said that his Government could not accede to these conditions as they infringed Chile's sovereignty. Thus we were forced back to difference of views on construction of award. Edwards said that Chile would not yield her position on that construction, and I said that recognition of Commission's power was vital to the plebiscite. He then said that he hoped we could come to some agreement, and asked why we should not make it a juridical deadlock instead of my continuing to insist on passage of my motion for which at last meeting Peruvian Commissioner had said he would vote.

I said that situation had been studied, and that the demands which had been made were thought to be absolutely necessary; this action on my part had brought forward question of Commission's authority for decision which sooner or later would have to be made. Edwards then said that this action would place Chile in difficult position toward any consideration of diplomatic settlement, and again said that plebiscite was absolutely impossible, even though we might be able to resolve the present impasse. He stated that Chilean Government had cabled to Mathieu suggesting suspension of plebiscite. Edwards also thinks that any Commission which might be got together to discuss diplomatic settlement should meet in Washington.

Edwards then asked if there would be any objection to my calling off Saturday's meeting which had been planned but not announced. I asked him about his delayed legal argument and his statement in answer to my presentation of facts and he said he had been promised them for Saturday. I wanted to comply with his request that no meeting be held Saturday, and, with the additional reason in mind that my advisers would have opportunity to examine Chilean case, therefore I agreed to call off meeting.

I think Edwards' request for delay was made in hope that it would be possible eventually to prevent further consideration of my resolution, and that Chile would thus be able to extricate herself from present situation without serious consequences. She would then be in position to say that she had always been ready to do all that had been asked if and when question of her refusal to comply with Arbitrator's interpretation should arise. It is my opinion, strongly supported by my advisers, that an early meeting should be held and motion passed. Should motion not be passed and plebiscite should be suspended at this point, our position would be seriously weakened as no direct issue has yet been made and there are no grounds for appeal by Chile to Arbitrator even if she should decide to do so, nor is there any issue or default by either Government on which Commission could go to Arbitrator.

Another reason for early meeting and passage of motion lies in fact that otherwise Peru would be left entirely without guarantees; and I greatly fear that we should forfeit confidence and support of Peruvian delegation and that Peru would withdraw, leaving field free for Chile and making my position impossible.

Action on our demand, moreover, would have salutary effect on Chile, not only in regard possibly to inducing change of attitude on her part but also in regard to her proposals for a diplomatic settlement. The risk that Peru will be so encouraged as to become unreasonable is, I think, less than risk she will not prosecute negotiations in earnest if we weaken and fail to pass motion. Passage of motion will not increase Chile's present embarrassment materially but it will make clear that we are in earnest. Anyway, Peru's attitude toward any compromise is very doubtful.

I have ventured to cable at this length only because of representations I know will be made to you at Washington by Chile; I think that I should advise you of my views in advance, so that if you agree with me, you will be able to reply to Chilean Ambassador in such a way as greatly to strengthen my position. Pershing.

VON TRESCKOW

723.2515/1663 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, October 31, 1925—1 p. m.

For Pershing: Your telegram October 29, 8 p. m. See my telegram of Oct. 29, 5 p. m. The following has just been received from Ambassador Collier dated October 30, 1 p. m.:

This morning Minister for Foreign Affairs informed me that Chilean Cabinet yesterday decided to make every sacrifice necessary

to avoid rupture of plebiscite; that wide divergence of views exists between Edwards and Government; that Edwards will be summoned to Santiago at once; and that if he does not then agree with Government's policy he will be replaced. Minister also informed me that, as General Pershing had expressed opinion that Chile ought to have no officer in province of higher rank than colonel, present commanding officer would be called to Santiago very soon and would not be sent back to Tacna. Minister also said that present *intendente* would probably be replaced this coming week and would probably be succeeded by former Minister for Foreign Affairs, Jorge Matte. The Minister strongly requests that you instruct General Pershing to postpone action on proposed resolutions for week or so until Government of Chile can carry out foregoing program. In deference to difficult situation of Government here and its manifest desire to carry the award into effect honorably, and also in view of its difficulties with jingoistic element and with extreme national sentiment of population of Arica, I sincerely hope that you can grant Minister's request

Today at noon I replied to Collier that you are on ground with full knowledge of local conditions and with authority to carry out fair and free election as provided in award; that you possess my full confidence and that of Arbitrator; that it is impossible under the circumstances for me to give you instructions and directions about details of manner in which award is to be carried out; and that I will transmit for your information and careful consideration the request of Chilean Minister for Foreign Affairs.

KELLOGG

723.2515/1661 : Telegram

*The Secretary of State to the Consul at Arica (Von Tresckow)*¹³

[Paraphrase]

WASHINGTON, October 31, 1925—[2] p. m.

For Pershing: The following is my view of the suggestions Chile has made for diplomatic settlement outside plebiscite, and the policy I propose to follow:

The President should keep perfectly clear his position as Arbitrator. He has accepted a submission and is dealing with matter within terms of the submission and of his award. Difficulty of having a fair plebiscite will not be because he has failed to give proper attention to terms and condition of award. Arbitrator provided for a Plebiscitary Commission with complete control over terms and conditions of plebiscite subject to the award. He has appointed a citizen of outstanding ability and impartiality as the American member of the Commission. If it should now prove impossible to

¹³ The same to the Embassy in Chile as Department's No. 69, and to the Embassy in Peru as Department's No. 63.

hold a fair plebiscite, it will be because of character and attitude of the population or because of failure of Chile, which under Treaty of Ancon has administrative authority over territory during plebiscitary period, to comply with the requirements of the award.

It is necessary, for above reasons, that in every step taken responsibility for prevention of a fair plebiscite constantly be kept where it belongs. General Pershing will attend to requirements which are necessary to safeguard plebiscite. If any question arise regarding propriety of these requirements or of authority of Commission to impose them, the Arbitrator then, on his own initiative if it is necessary, can render an opinion construing the award which will settle any question of that sort. Responsibility will then rest upon Chile to comply and if her authority is not fairly and adequately exercised accordingly, and for that reason plebiscite fails, the responsibility will be hers.

The danger existing in taking up measures for some outside solution in view of difficulty of obtaining fair plebiscite, is that positions of Chile and of this Government may be obscured or misconstrued. For that reason use of good offices of this Government will be granted only at request of both parties. I will not be bearer of Chilean proposal regarded as means of getting rid of the plebiscite. If negotiations between the Governments of Chile and Peru or any of their representatives, however informal or unauthorized technically these may be, reach point where both are ready to invite the helpful offices of the Government of the United States, there may be chance to perform great service in bringing those two Governments to an accord. In meantime President will confine himself to role of Arbitrator, sustaining power of Plebiscitary Commission to make reasonable requirements under the award and making clear the obligation of Chile as administrator of the territory to provide fair opportunity for plebiscite, in this way making clear to both Chile and Peru fairness and impartiality of his intention and procedure. Meanwhile both those countries, contemplating possible failure of plebiscite for one reason or another, may find ways to negotiate for a definite settlement. There can exist an attitude on my part permitting such a course but not going to extent of submitting or favoring an alternative plan. Case is not yet ripe enough for suggestions by me regarding nature of an alternative settlement. If negotiations between Chile and Peru, or any of their representatives, progress far enough to be promising, I am likely to receive hints if, not requests from Governments of both that my good offices are desired. Should that happen, I would be in strong position and could ascertain from each party what it is willing to do, and I might be able to assist in helping them to reach agreement. But this will come about only at their

invitation and with reasonable prospect of success; otherwise plans for plebiscite should continue. If they fail, party responsible must accept all the blame.

KELLOGG

723.2515/1678 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, November 9, 1925—5 p. m.

[Received 11:20 p. m.]

117. Within last three days I have been visited several times by Peruvians who have been expelled from the Provinces of Tacna and Tarapacá and who are now held in Santiago against their will but are permitted freedom within the city limits and are maintained decently here at expense of Chilean Plebiscitary Bureau. Only few are from Tacna or assert that they are qualified voters in the plebiscite, but all are Peruvians. They told me that many persons are similarly situated in Santiago and in neighboring cities and they have given me many names and residences. They allege that 300 natives of Province of Tacna who have completed the ordinary period of military service are still held in Chile. These may be men referred to in my telegram No. 77, August 20.

Does Department wish me to take any steps to inquire into these or similar charges that may hereafter be made? I believe that the Chilean Foreign Office would not refuse request for information, indeed, that it would suggest inquiry by us were complaints even mentioned to them. Does Department desire that any representations be made or that any assurances be asked of Government of Chile? Delay may mean practical loss of rights to Peruvians. It is possible that present Ministry of Foreign Affairs knew nothing about these matters until very recently, but the officer in charge of the Plebiscitary Bureau here had personal charge of those detained and administered funds for their maintenance.

COLLIER

723.2515/1678 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, November 11, 1925—11 a. m.

72. Embassy's telegram No. 117, November 9, 5 p. m. I am very glad to have information contained in your telegram. I hesitate

somewhat to ask you to take up matter with Chilean Government as there is already much bitterness felt by Chilean officials and I wish to avoid giving slightest impression that this Government is acting as advocate of one of parties to the arbitration. It is of importance that the Government of the United States maintain its absolutely impartial attitude, and not take any action which might be thought more favorable to one side than to the other. I also fully appreciate that to take no action at all might lay Department open to charge that it was aiding Chile by suppressing important information. For that reason, before determining on any course of action I wish to know (1) whether there are any obstacles placed in way of direct communication between the Peruvians involved and their Government or their Plebiscitary Commission, and (2) your views on attitude that Government of Chile would take should you take up matter informally with it. You will appreciate that I may have to call upon you to make further representations to Government of Chile on behalf of the President's representative on Plebiscitary Commission and it is important, therefore, that your effectiveness to this end should not be impaired.

KELLOGG

723.2515/1679 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, November 12, 1925—3 p. m.

[Received November 13—9:50 a. m.]

118. Department's No. 72, November 11, 11 a. m. I informed the Chilean Foreign Office of Peruvian complaints made to me, and the Ministry sent the Counselor to see me. He volunteered following information: Few of those maintained by the Government are from Tacna, and these will all be repatriated at expense of Government before date of plebiscite if they desire to be. Greater part of those brought here from Tarapacá were brought because of Government's desire to protect them from popular violence arising from suspicion that Peruvians had promoted disorders. All are maintained at Government expense. Minister of Foreign Affairs was not aware of this until Peruvians made complaints. He says this was stupid use of funds and states that police and administrative authorities were permitted to do it because no other funds were available. All who wished would be sent back; but it was believed that, being well cared for, they will prefer to stay here. Conclusion of Counselor's statement.

This version of Chilean Government's action has since been confirmed by Minister for Foreign Affairs, who expresses willingness to have Government of the United States make inquiries, and asserts his desire to give information on any complaint that may be brought to his attention. Since first call at the Embassy, Peruvians have come here daily to say that they were not molested by neighbors in the north and needed no protection from them; that they are remaining here involuntarily; but that since first complaint was made to me they have been required to sign statements to contrary and upon refusal have been threatened with repatriation, but without indemnification or the opportunity to earn a living.

These cases I have not discussed with the Foreign Office. Writer of first complaint to me said that he addressed me because numerous letters to Plebiscitary Commission had apparently been intercepted.

I am convinced that practically all of these deportations were unjustified and are related to the plebiscite, and that charges of communistic activity are pretexts. . . .

I respectfully submit my view, in answer to your request. It is quite apparent that our duty requires us not to ignore any fact which affects the plebiscite, or any relevant statement if it is not inherently improbable. Our diplomatic and consular officers in Chile should be free to take statements from all who assert that rights granted them by award are being violated or whose liberty appears to be abridged because of their lawful activities in connection with the plebiscite. Diplomatic and consular officers, at least under the present circumstances, should avoid everything susceptible of being construed as espionage or police investigation or interference with administrative action; but they should be free to hear complaints and, after previously consulting with the authorities, even to visit places of residence or detention, and their interviews with complainants should be private to avoid fear of later punishment by complainants. Impartiality, in my opinion, requires that after complaint has been received, then Chilean authorities should be fully informed and given opportunity to explain or to refute. . . .

I am confident that if I bring these complaints to the attention of the present Minister for Foreign Affairs, he will accept and probably suggest course of procedure I have just outlined. I believe it even possible to obtain his promise to give complete list of all natives of Tacna now in Chile with their present residence and changes of residence in future and to acknowledge the right of unrestricted correspondence and interview between them and American diplomatic, consular, or plebiscitary representatives. Embassy and consulates should keep in touch in order to ascertain reliability of statements made, and especially to ascertain that the repatriated really get home.

. . . I believe bitterness which Chileans feel against our observers in Tacna, and in certain places against our consuls, arises from Chilean belief that they conduct ex parte investigations, encourage Peruvian complaints, and do not give Chile chance to explain or refute.

COLLIER

723.2515/1679 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, November 19, 1925—7 p. m.

74. Embassy's No. 118, November 12, 3 p. m. I should be glad to have you discuss matter in friendly informal way with Chilean Minister for Foreign Affairs. This will give him opportunity of his own volition to correct the existing abuses. Continue to keep Department informed.

KELLOGG

723.2515/1682a : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, November 20, 1925—[noon].

For Pershing: Reference . . . my telegram October 31, 2 p. m., to you, Collier, and Poindexter outlining policy of this Government on question of good offices in settling Tacna-Arica controversy. . . .

. . . On October 27 Poindexter telegraphed as follows:

[Here follows text of Ambassador Poindexter's telegram No. 75, printed on page 404.]

I do not wish to change attitude of this Government as set forth to Collier and Poindexter in my telegram of October 31 which was that I am not in position to offer good offices; and I entirely approve your attitude in not opening negotiations with the Peruvian Commissioner, more particularly as Chile's memorandum states that she is not willing to have proposition made as coming from her. Do you think there is any way whereby you can ascertain what Peru's attitude would be, without compromising us or making suggestions as coming from you or me? I am sending this because Chile's second proposition, which is evidently authentic, is more specific and flexible than was the first. Of course I shall discuss entire matter with you when

you come to Washington.⁷⁴ Inform me before your departure is made public, so that it can be announced simultaneously in both places and can be specifically stated to press that you are merely coming for short time on leave because of private business, or something of that nature. I should also like your suggestions on public statement; the press will be very inquisitive.

KELLOGG

723.2515/1686 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, November 22, 1925—8 p. m.

[Received November 23—11:25 a. m.]

From Pershing: Yesterday morning before meeting of the Commission, Mr. Edwards sent me letter in which he stated that he had communicated agenda that day to his Government and had received instructions to state that hereafter Chile will abstain from participating in any meetings of Commission, or of its subsidiary agencies, unless directly and closely concerned with registration and election regulations and with providing for fixed dates for the registration and voting, which in judgment of Chilean Government constitutes fundamental precept of award and primary duty of Commission itself. He further stated that the Chileans have plain instructions to ignore each and every one of the decisions of the Plebiscitary Commission, or its subsidiary agencies, which may require their cooperation until the registration and election regulations shall have been enacted and the dates for registration and the holding of the plebiscite shall have been fixed.

Edwards' action is in accord with Chilean contention that plebiscite does not start to run until registration of voters begins. His opinion and mine on the matter have already been expressed. Position taken is entirely inconsistent with situation regarding law and order in province which Chileans have been urgently requested to establish on basis that would guarantee equality to both contestants. Chileans hold that somehow enactment of election regulations would transform state of fear and terror existing in minds of opposing electorate into feeling of assurance. Most of these have been violently driven from territory; before they can safely return to vote, confidence must be restored in sincerity of Government of Chile to afford them protec-

⁷⁴ General Pershing had informed the Secretary that ill health made it desirable that he return temporarily to the United States for medical treatment. On Dec. 29, 1925, he announced his intended departure from Arica, and sailed from that port on Jan. 27, 1926.

tion, and this seems improbable when we consider fact that policy of terrorism is continuing.

It is my positive opinion that as long as offenses are committed against entire opposing electorate, as long as no security of life and property exists, as long as Chilean idea prevails that plebiscite must if necessary be won by force, and as long as Chilean Government remains unwilling to put an end to these conditions, then just so long will it be necessary to defer any attempt to conduct fair registration or to hold honest election.

Tuesday I shall call up for final action motion presented yesterday calling for departure from the province of officials who have been removed from public office unless they have Commission's permission to remain. There has been merely formal compliance with demands for removal of officials, who have been uniformly honored and in some instances have been promoted to higher civil positions and in others have been retained for service in the province. Presence of officials guilty of acts inimical to fair plebiscite cannot be permitted if purpose of their removal is not to be completely frustrated.

Pershing
VON TRESCKOW

723.2515/1685 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Extract—Paraphrase]

WASHINGTON, November 23, 1925—6 p. m.

For Pershing:

In view of attitude of Chilean Commissioner that decisions of Plebiscitary Commission will be ignored until registration and election regulations have been enacted, I suggest for consideration feasibility of taking them at their word and enact election rules and regulations as early as you can, but give notification that compliance with decisions of Commission is expected. . . . Plebiscitary Commission would not lose its power to insist on noninterference with a fair election merely by its enactment of rules and regulations. Object of above suggestion is that Chile seems to be basing her withdrawal on failure of Commission to promulgate these rules and regulations, and is evidently trying to put Commission in false position in view of award, wherein it is provided that Commission shall proceed at once to formulate rules for its own procedure and regulations governing plebiscite, etc.

I do not recognize Chile's right to say she will not comply with your demands for protection of the voters until you have promul-

gated election rules and regulations, but if you do promulgate and Chile does not thereafter comply, you can, of course, change dates, times, and places for holding registrations and election. If you should take this course it might be well for you to give out Edwards' communication that Chilean authorities in Tacna and Arica have been instructed to ignore each and every decision of Plebiscitary Commission until regulations have been enacted, and give out at same time copy of your statement to Commission or reply which might be along these lines:

Plebiscitary Commission does not accept Chilean view that compliance with rulings of the Commission cannot be required until rules and regulations have been published, but interpreting communications of Chilean Commissioner to mean that Chilean authorities in Tacna and Arica will be instructed to carry out each and every one of decisions of Plebiscitary Commission when registration and election regulations shall have been enacted and dates for registration and holding of plebiscite shall have been fixed, the Plebiscitary Commission will now take up this matter, and as soon as regulations shall have been enacted and dates for registrations shall have been fixed, the Commission will expect the wholehearted cooperation of the Chilean authorities.

While I understand perfectly reasons you give for not issuing rules and regulations at this time, the general public is not so well informed and might accept Chilean contention that there was undue delay, in view of provisions of award that Commission shall proceed at once to formulate its rules, etc. Chile will be deprived of any possible technical justification by your promulgation of rules and regulations as suggested above, and the responsibility for compliance will be placed squarely upon her.

KELLOGG

723.2515/1688 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

WASHINGTON, November 25, 1925—7 p. m.

For Pershing: Following telegram, dated November 24, noon, just received from Collier:

"Santiago papers daily devote pages editorially and in despatches as to impasse. All contend that Chile can make no further guarantees nor participate further until Commission 'begins to do that for which it was established, namely, enacts election law and proceeds to hold plebiscite'. [Here follows a summary of newspaper opinion which has been omitted.]

[Paraphrase]

I know, nevertheless, that many Chileans feel that Chilean Government has made a mistake and that it should give every reasonable guarantee of fairness; it is felt by all that Commission should not delay holding plebiscite, that Peruvians should not be allowed to provoke incidents, and that Americans who accompany Peruvians should be sent home at General Pershing's request. As long as they are there, although they are private citizens, it will be impossible to make Chileans believe that our Government is impartial.

President of Chile and Minister for Foreign Affairs have both given out statements that Chile will adhere to position she has taken unless and until Commission shows desire to hold plebiscite promptly. Both state with evident seriousness their desire to retain friendship of America; and I believe that bad as situation is, it can be saved by firmness and consideration. Recent speech of President of Peru on occasion of receiving new Bolivian Minister in which he offered Peru's help to Bolivia to recover Province of Antofagasta, has created bad impression here. Utterances of this sort are cause of police surveillance of Peruvians in Tarapacá and of deportations from that province.

The Brazilian Ambassador, the Uruguayan Minister, and the Colombian Chargé have come to see me about recent developments. In talking with them I said that I had no instructions but that General Pershing was animated solely by desire to hold absolutely impartial plebiscite, and that I regretted Chile's action but that I was confident that Chile would never be willing to incur the universal condemnation of the American Republics which I felt would certainly follow an action that must be interpreted as an unwillingness to accept suggestions intended merely to secure just and honest plebiscite. I think these diplomats will express this view to their Governments and will talk this way to Chilean Government if it sounds them out. Still, to obtain approval of other American Republics it may be well to avoid further delay in the plebiscitary proceedings which to many of them seems unnecessarily long and which all realize only gives additional opportunity for passions to become more inflamed.

I have reliable information that ex-President Alessandri is returning here to urge the Government to maintain its present position or refuse to continue with plebiscite on ground that proceedings to date have been violation of award and usurpation of power by Pershing. He and Barros Jarpa are being denounced by many for getting Chile to arbitrate, and others talk loosely of great violence being done them if outcome is unsatisfactory; on other hand, Edwards is receiving much criticism for having angered Pershing.

The desire for a political settlement with division of the territory is evidently growing; foreign diplomats often speak of it as the only solution that offers possibility of restoring harmony."

723.2515/1698 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, November 26, 1925—10 p. m.

[Received November 27—11:55 a. m.¹⁵]

From Pershing: Department's telegram, November 23, 6 p. m. The situation here has become tense, and Chilean Commissioner has demanded a meeting of the Commission on Saturday to consider his motion for promulgating regulations and fixing dates for the plebiscite. After careful consideration I have prepared a reply to Edwards reviewing entire situation, restating the conditions which have caused delay in framing and promulgating regulations but reiterating my readiness to proceed with work on regulations as rapidly as possible, and expressing belief, but not committing myself absolutely, that they can be reported out of committee in about 30 days and promulgated about middle of January; I pointed out that no delay will be caused in plebiscite provided Government of Chile henceforth cooperates in good faith in carrying out prerequisites resolution and other steps for making fair plebiscite possible. My reply departs from your suggestions on two points only: (1) in restating the conditions which have caused delay—I think restatement essential in order to fix responsibility in event of a break; (2) in calling upon Chilean Government to change orders instructing Chilean officials not to cooperate with the Commission while awaiting promulgation of regulations. Latter point is vital, partly because weakening under present conditions would end usefulness of American delegation but chiefly because if changes in present conditions are to be postponed, result would be not only to postpone plebiscite but to defeat it. Impossible to remake conditions here overnight. A reasonable time must elapse for changes to operate before fair election is thinkable, much less possible. Delay would cause irreparable loss to Commission's prestige, and would irrevocably deprive electorate of any confidence that fair registration and election could ever be held. Furthermore, there is possibility that Peru may withdraw if Chile is allowed to disregard prerequisites resolution. All my advisers are in agreement with me that in proposed reply we have gone as far as we can go in making concessions to Chile. Because of doubt about my right to postpone meeting under the rule I feel obliged to hold meeting Saturday morning and to read my reply. Pershing.

VON TRESCKOW

¹⁵ Telegram in two sections.

723.2515/1698 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, November 27, 1925—7 p. m.

For Pershing: Your telegram of November 26, 10 p. m. I called Chilean Ambassador to Department this afternoon and impressed upon him necessity of complying with your position as you state it in your reply to Edwards. Mathieu is telegraphing Chilean Government urging that instructions be sent Edwards before meeting if possible to comply with your demands, and to discuss electoral law afterwards, and to accept your proposal that regulations be reported from committee in about 30 days and that registration begin on or about January 15. If you can possibly advance these dates, it would, I think, be helpful.

I informed Mathieu of abusive press campaign and he said he would try to have it stopped.

KELLOGG

723.2515/1691 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

WASHINGTON, November 27, 1925—9 p. m.

For General Pershing: Following telegram received from Collier at Valparaiso dated November 25, 4 p. m.

"Am in receipt of a letter signed by citizens of Valparaiso to which I have not replied but whose substance I communicate because expressive of universal opinion here: The employment of Americans by Peruvians in Tacna is intentionally calculated to produce friction between their country and Chile. America is thus made a party to the conflict instead of a judge. This causes the Chilean masses to distrust America's fairness and to take action expressive of their resentment. All is designated by Peru to create incidents and hatch complications yet up to date no blood has been shed except that of very few Chileans who have been assassinated. Chileans cannot be expected to maintain Christ-like resignation in the face of premeditated provocation. End of résumé.

Chileans feel that American Government is responsible since mere hint by Pershing to the Peruvian Commission that employment by them of Americans was distasteful to him because of natural inference that it indicated sympathy by the American people with Peru, would undoubtedly result in Peru sending them away. I think presence of these Americans has done more than anything else to destroy Chilean belief in our impartiality.

Mathieu was called to the Department today and told that I greatly regret the policy which the Chilean Government is pursuing in its

newspaper campaign of vilification against the American Plebiscitary Commission. It was pointed out to him that delicate negotiations cannot be conducted through the medium of the press and that therefore this Government and the American Commission have carefully avoided any action which might render the situation more difficult and which might make more difficult Chile's compliance with the essential requirements for the holding of a plebiscite and that it has therefore caused great surprise to the Department that Edwards' letters to Pershing should be published at practically the same time that they are delivered to him. They are quoted verbatim in the American press. He was told that if the Chilean Government or Chilean Commission argues its case in the press this Government must reserve the right for itself and the American delegation to make clear in the same manner its position. The action of the Chilean Government and Commission leads almost inevitably to the conclusion that the Chilean Government does not desire a plebiscite and is taking action which will almost necessarily make the holding of an election impossible. It is therefore much to be hoped that the Chilean Government and Commission will desist from such action and in the future will loyally cooperate in the efforts now being made to hold an election. It was explained that this does not mean that this Government objects to publicity regarding the action of the Plebiscitary Commission on the contrary it welcomes it but it does object to publicity in a manner which brings about recrimination in the press which will so excite public opinion as to make it well-nigh impossible for the Commission to carry on its work. It was added, however, that this Government very strongly resents the implications made and the campaign carried on against the members of the American delegation.

KELLOGG

723.2515/1697 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Extract—Paraphrase]

ARICA, November 28, 1925—6 p. m.

[Received 10:25 p. m.]

From Pershing: At meeting of the Commission this morning Chilean Commissioner read lengthy statement. He said that he wished to believe that the Peruvian Commissioner and the President of the Commission were acting with best and loftiest intentions, and then proceeded in a recital of proceedings of the Commission to make deliberate and disingenuous attempt not only to misrepresent those proceedings but to impugn motives and attack character of his colleagues on the Commission, especially my own. Object is doubtless

to confuse the issue and bring proceedings of Commission to an end in such a way as to enable Chile to escape her just responsibility. I shall endeavor to take care that he does not succeed.

Edwards stated that under instructions from his Government his statement would be made public in press tomorrow. I told him that this would be violation of our agreement. I shall make no statement to press except that if Chilean Government is dissatisfied with proceedings of the Plebiscitary Commission, it has right to appeal to Arbitrator.

Pershing
VON TRESCKOW

723.2515/1700 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Extract—Paraphrase]

SANTIAGO, November 28, 1925—8 p. m.

[Received November 30—9:25 a. m.]

123. Powerful influences outside the Government are working to obtain diplomatic settlement of the Tacna-Arica question on basis of division of territory or even of sale by both Chile and Peru to Bolivia of all their rights in the province, in hope that large sum will be paid which it is believed that the United States might be disposed to lend to Bolivia. It is rumored that President-elect of Chile favors this solution. I have stated that the Government of the United States has only one thought, namely, the discharge of duty it has assumed at request of both Chile and Peru to preside over absolutely impartial plebiscite. I have given no encouragement to idea of any other mode of settlement, but I report, for your information, that it is my belief that the two peoples can never live in harmony except by cession to Bolivia or by division of the territory. . . .

COLLIER

723.2515/1700 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, December 1, 1925—noon.

77. Embassy's 123, November 28, 8 p. m. I am greatly pleased to have your information. In order that you may have background in

any future conversations, I wish to restate my position and explain attitude I took in my No. 69, October 31, 2 p. m.⁷⁶

Nothing would be more gratifying to me than to have a diplomatic settlement of Tacna-Arica question, and there has never been time when I would have hesitated to advise both parties to make settlement of that sort. How to approach them is the difficult question. I am not aware how I could do it without being asked by both parties, as I indicated in my telegram No. 69, and without running great risk of criticism. As soon as both parties ask my good offices, I am willing to advise settlement and to lend my aid in every way.

KELLOGG

723.2515/1711 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Extract—Paraphrase]

SANTIAGO, December 2, 1925—11 p. m.

[Received December 3—12:30 p. m.]

126.

I saw Minister for Foreign Affairs on Monday afternoon and expressed to him your regret and resentment over publication in Chilean press of articles impugning motives of Arbitrator and his representatives and calculated to inflame ill-feeling. I read paraphrase of your telegram No. 76.⁷⁷ Minister expressed regret and said that Edwards' speech had been given to press by former [*latter?*] without consulting Minister, and that he first learned of it by telegram from Edwards stating that when General Pershing first requested him not to publish speech, Edwards replied it had already been given to Buenos Aires papers. Minister said he had begun cable to Edwards disapproving action and requesting not to publish in Santiago papers, but before he had finished he was shown copy of Santiago evening paper belonging to Edwards containing Edwards' speech. Minister said he then cabled Edwards his regret at publication, but mentioned inutility of instructions under circumstances.

The Minister continued that some days before he had called director of the Edwards' press to the Ministry and had requested discontinuance of articles against Pershing and the United States and had stated that as Edwards was on the Commission articles such as these were especially embarrassing to the Chilean Government

⁷⁶ See footnote 73, p. 409.

⁷⁷ The last paragraph of the Secretary's telegram of Nov. 27, 9 p. m., to the consul at Arica, p. 420, was telegraphed to Ambassador Collier as Department's telegram No. 76.

and made Edwards' position almost untenable. I asked whether, in view of the unauthorized publication of Edwards' speech since then, he would remain on the Commission. The Minister replied that he hardly dared remove him, his influence was so great. He added in a joking way that if the United States would remove General Pershing, Chile would withdraw Mr. Edwards; that both men had become nervous and irritable.

I replied that General Pershing enjoyed your confidence, had given out no speeches, and had not impugned the motives of the Chilean head of the State. Minister replied that on the contrary General Pershing at session of Commission on November 21 had made a speech, admittedly prepared before Commission had received Edwards' note of that date,⁷⁸ in which Chilean authorities, even the highest, were charged by General Pershing with fraud and violence, imputing base motives to all, including Edwards. I said that this speech had not been given to press. Minister admitted that it had not, but said he was going to send copy of speech to the Embassy as perhaps Pershing had not communicated it to you, and that it was such an unwarranted document and so clearly showed that General Pershing had no intention of even registering the voters and holding plebiscite, that Edwards' speech of November 28 had been inspired by it. . . .

COLLIER

723.2515/1711 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, December 3, 1925—11 p. m.

78. Embassy's No. 126, December 2, 11 p. m. I greatly regret that the Chilean press is continuing to abuse General Pershing and to impugn motives of the United States touching its Latin-American policy. I am glad to learn that Minister for Foreign Affairs had not authorized publication of Edwards' letter; but Edwards stated to Commission that he was directed by his Government to publish it, and I do not understand how it happened to be telegraphed to all chancelleries of the world.⁷⁹

⁷⁸ Neither printed; for substance of speech, see penultimate paragraph of telegram of Nov. 22, 8 p. m., from the consul at Arica, p. 415; for substance of letter, see first paragraph of the same telegram.

⁷⁹ On Dec. 7, 4 p. m., the Ambassador telegraphed the Secretary that the report that the letter had been sent to the chancelleries was now stated to be erroneous and was probably caused by confusing the speech with the informative material given out in Washington and other capitals (file No. 723.2515/1731).

I have not been informed what General Pershing said in his speech to Commission on November 21. It is true that Pershing, replying to Edwards' letter of November 21, wrote him long communication stating reasons for delay and setting forth in detail acts of violence, intimidation, and deportation of Chilean authorities in Tacna and Arica. General Pershing did not publish this answer, although Edwards published his of the 21st. I have given no statements to press as I was desirous of not adding anything to bitterness which now exists and which Edwards seems bound to foment.

You are entirely justified in your statements to Minister for Foreign Affairs in way I feel about these publications. Do not, however, make any further suggestion about removal of Edwards as that is matter for Chilean Government to decide. Likewise it would be better not to make further reference to presumption that Pershing had taken no important steps without being convinced that he represented ideas of Arbitrator. I would not again open subject; and I have kept the President out of it entirely, because, while he has greatest confidence in Pershing, he must maintain detached position, and will, of course, pass on any question brought before him on its merits. I desire to thank you for all that you have done in this matter. I do not know where it is going to end. Should be glad to receive any suggestions you care to make.

KELLOGG

723.2515/1729 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, December 5, 1925—8 p. m.

[Received December 7—12:08 p. m.]

From Pershing: . . .

I propose to call a meeting of the Commission next week, at which I shall reply to Edwards' statement of November 28⁸⁰ and present a motion in substitution for his. My motion will set forth briefly unsatisfactory conditions in Tacna-Arica, the steps taken to remedy them, the correspondence between the Chilean Commissioner and the President of the Plebiscitary Commission since November 21, and will fix tentatively the schedule of dates for the plebiscite, which will be the same as previously suggested except that it will be necessary to postpone all dates two weeks to make up for delay caused by Chile's action, thus carrying the voting up to May 1; motion will also call upon Chile to cooperate immediately in putting the prerequisites

⁸⁰ For substance of statement, see first paragraph of telegram of Nov. 28, 6 p. m., from the consul at Arica, p. 421.

resolution into effect, as well as other resolutions passed in support of it. . . .

. . . Your information on Mathieu's attitude is very interesting and I regret that I deem it impracticable to advance dates to show appreciation, but he may be sure that I shall look forward to his visit with genuine pleasure, and shall be ready to cooperate with him in every way. I may add, incidentally, that Edwards asserts his course and even the tone of his recent address was and is dictated by Chilean Government. Pershing.

VON TRESCKOW

723.2515/1729 supp. : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, December 8, 1925—9 p. m.

For Pershing: I am greatly disappointed over suggested postponement of election, and wish to emphasize solicitude President feels touching possibility that delay may furnish ground for complaint. Of course you will understand that there is no desire that proceedings should be expedited at expense of their integrity or of making appropriate arrangements for holding of plebiscite, but we do desire that there should be no delay in formulation and promulgation of regulations and holding of registration and election beyond what is absolutely necessary. In your letter to Edwards,⁸⁸ a statement was made that committee on registration and election regulations should "with good will all around" be able to report to Plebiscitary Commission by end of December. In view of length of time that committee has had matter under consideration would it not be possible for committee to report at earlier date? Could not a week, or perhaps two, be saved this way? I notice also that it is suggested that Commission might be able to adopt and promulgate regulations on or about January 15, assuming report by committee by end of December. Would it not be possible after committee's report is in to expedite proceedings preliminary to adoption and promulgation of regulations? By bending considerable effort to that end, could not whole matter of adopting regulations be disposed of early in January? Assuming that registration should begin within approximately 30 days after promulgation of regulations and that equal period be allowed for registration, could not hearing of appeals be so expedited that, with time that might be saved in promulgation of rules, holding of

⁸⁸ For substance of Pershing's letter of Nov. 27, 1925, to Edwards, see telegram of Nov. 28, 10 p. m., from the consul at Arica, p. 419.

election might be brought to early part of April? I do not desire to suggest any course that is impractical, but I am sure you will desire to hasten proceedings as much as possible in interest of all concerned. It seems quite clear to me that promulgation of regulations which must be complied with, will not only make impossible any complaint for delay, but will afford standard of action which will be helpful in all future proceedings. In view of fact that Commission can change dates if advisable, is it not desirable that initial dates be fixed for as early date as is consistent with assembling voters for purposes of registration and with expeditious hearing of appeals?

I do not desire in slightest to underestimate your personal interest or interest of all who are doubtless hard at work with you, but importance of speeding up matter is so great that I am sure you will give careful consideration to suggestions I have made, especially in view of President's solicitude in matter.

KELLOGG

723.2515/1745 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, December 11, 1925—2 p. m.

[Received December 12—10:23 p. m.]

From Pershing: Secretary's telegram December 8, 9 p. m. Under circumstances any attempt to fix dates for registration and election is guess work, more or less. Suggestions I have made were to help us out of what appears to be a deadlock. No one can be more anxious than I to make this effort a success, but it must not be done at sacrifice of reasonably free plebiscite. Your telegrams make me feel that existing situation here may not be entirely understood. There has been no improvement in conditions here in past four months. Law and order from plebiscitary point of view do not exist. Chile maintains grip on population and does not intend to release it. I regret that Mathieu was not told exactly reasons why we have been unable to fix dates earlier. . . . In deference to your suggestions I am willing to fix dates as I have indicated, but it is certain that we shall not be able to live up to them. . . . It must be remembered that we are dealing with a population which has never voted before. In addition, the ill feeling between the two elements of the population inflamed by the contest, Chile's determination not to allow Peruvians to vote, and the consequent obstruction and interference by both sides, gives you a partial picture of the problem. I do not think that anyone who has not been here can even begin to understand it. So, Mr. Secretary, you may accept the best judgment of those

who have been sent here for the purpose. Neither Chileans nor Peruvians have any conception of meaning of an election, even of simplest sort, and their estimates of time required, even though sincere, are worthless.

Pershing
VON TRESCKOW

723.2515/1747 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, December 12, 1925—5 p. m.

[Received 8:35 p. m.]

142. The Minister for Foreign Affairs has made public statement that:

"Owing to the impossibility of securing a change of the opinion formed by the President of the Commission, based upon information that Chile considers erroneous, concerning the expediency of holding the plebiscite without greater delay, Chile has been obliged to exercise the right of appeal given to it by the award against the resolutions voted in the session of Wednesday last. It believes that a detailed exposition before the Arbitrator of the manner in which the majority of the Commission proposes to apply the award will bring about a modification of the proceedings which, to Chile's regret, have caused a suspension of the Commission's activities in Arica. The exercise of the right to appeal is not unusual in legal proceedings. It gives the opportunity to defend national interests without implying disrespect for the Arbitrator. It is a fortunate circumstance which the Government notes with pleasure that the taking of this appeal may produce a truce in the plebiscitary activities that will offer to the government of Señor Figueroa the opportunity to take the course that he considers most consonant with national interest."

COLLIER

723.2515/1756 : Telegram

The President of the Plebiscitary Commission (Pershing) to the Secretary of State

ARICA [undated].

[Received December 17, 1925—9:55 a.m.]

For the Arbitrator: Pursuant to instructions from the Plebiscitary Commission the following is communicated.

PART I. THE PLEBISCITARY COMMISSION, TACNA-ARICA ARBITRATION

Resolved by the Plebiscitary Commission, Tacna-Arica Arbitration, that the portion of the "dissenting opinion and request for

certification on appeal" of His Excellency the Chilean member, dated December 11, 1925, read, delivered and filed on December 14, 1925, which sets forth a dissent and appeal from the action of the Commission, on December 9, 1925, in substituting for a resolution to fix the date of the plebiscite introduced by the Chilean member, a resolution on the same subject introduced by the President of the Commission,⁸⁴ and in adopting the latter, be and hereby is certified to the Arbitrator under the provisions of the second sentence of paragraph D, page 45 of the award, as presenting a "question of general importance in relation to the holding or result of the plebiscite"; and that all other portions of said "dissenting opinion and request for certification on appeal" be transmitted to the Arbitrator for such consideration as he may deem proper, on his own motion, under the provisions of the first sentence of said paragraph D.

Section 2. That the President of the Commission be and hereby is instructed to cable to the Arbitrator this resolution; the aforesaid "dissenting opinion and request for certification on appeal"; the Chilean member's note number 100, dated November 21, 1925, containing a draft of a resolution to fix the date of the plebiscite, the substitute for said resolution introduced by the President and adopted by the Commission; and the Chilean member's notes numbered 106 and 108, dated respectively November 25 and December 7, 1925; and also to forward to the Arbitrator by mail a copy of each of said documents.⁸⁵

Section 3. That after His Excellency the Chilean member of the Commission shall have delivered to the Secretary General for transmission to the Arbitrator a complete file of all documents, including all the minutes of the meetings of the Commission, which the Chilean member has made a part of his "dissenting opinion and request for certification on appeal" such file shall be transmitted by mail to the Arbitrator by the President of the Commission: *provided*, that any document included by the Chilean member in the file to be transmitted to the Arbitrator which is not included in the minutes so to be transmitted shall be filed in quadruplicate, one copy to be transmitted to the Arbitrator, one for the President of the Commission, one for the Peruvian member, and one for the Secretariat.

Section 4. That the President of the Commission be and hereby is authorized to request the Secretary of State of the United States to transmit to the Arbitrator a copy of the letter dated November 27, 1925, addressed to His Excellency the Chilean member by the President of the Commission, and copy of the remarks made by the President at the meeting of December 9, 1925, in introducing a substitute for the Chilean member's resolution to fix the date of the plebiscite; that His Excellency the Chilean member of the Commission be and hereby is authorized to request his Government to instruct the Chilean Ambassador in Washington to deliver to the

⁸⁴ Text of resolution of December 9 not printed; under it, the date of the plebiscite was fixed for April 15, 1926, after a period for registration of one month, February 15-March 15. A resolution adopted by the Commission on January 12, 1926, postponed all dates 15 days. All dates were subject to change by the Commission.

⁸⁵ For text of the Chilean member's note No. 100, Nov. 21, and discussion of the other documents mentioned, see *El proceso de Tacna y Arica (1925-1927): reseña de los principales sucesos* . . . , pp. 122-150.

Secretary of State of the United States, for transmission to the Arbitrator, a copy of the Chilean member's address delivered at the meeting of November 28, 1925, and a copy of the memorandum read and filed by the Chilean member at the meeting of December 14, 1925, respecting the resolution to fix the date of the plebiscite introduced by the President of the Commission in substitution for a resolution on the same subject introduced by the Chilean member; and that His Excellency the Peruvian member of the Commission be and hereby is authorized to request his Government to instruct the Peruvian Ambassador in Washington to deliver to the Secretary of State of the United States, for transmission to the Arbitrator, a copy of the Peruvian member's statement read in the 7th session of the Commission, analyzing the conditions existing in the plebiscitary area; a copy of the remarks of the Peruvian member and a statement of the status of the cases respecting offences committed against Peruvian citizens for which complaints have been lodged in the Chilean courts, which were read during the 14th meeting of the Commission, on November 21, 1925; as well as a copy of the remarks made by the Peruvian member during the course of the 17th and 18th meetings of the Commission, on December 9 and 16, 1925.

Section 5. That in view of the provisions of the third and last sentence of paragraph D, page 45 of the award, the Commission respectfully recommends that the Arbitrator communicate to the Commission by cable his determination as to the time and manner in which, and the record upon which, the instant appeals of His Excellency the Chilean member shall be submitted to the Arbitrator.

Section 6. That the Commission respectfully recommends that the Arbitrator communicate to the Commission by cable his ruling as to the effect of the instant appeals upon the past, current, and future proceedings of the Commission and its agencies, with special reference to the question whether or not, pending disposition of the instant appeals, the parties are bound to cooperate with the Commission in carrying out its decision with respect to certain matters or all matters.

The foregoing resolution was adopted by the Plebiscitary Commission, Tacna-Arica Arbitration, on the 16th day of December 1925.

Sections 1 to 5, both inclusive, were adopted by unanimous vote of the three members of the Commission. Section 6 was adopted upon the affirmative vote of the President and the Peruvian member, the Chilean member abstaining from voting and formulating the following reservation:

"Section 6 of the resolution could be interpreted in the sense that the members of the Commission are to cooperate in carrying out each and every decision adopted by the Commission: but as the Commission has adopted, and may adopt in the future, resolutions affecting, or which may affect and even undermine, the laws and jurisdiction of Chile which prevail in these territories in accordance with the Treaty of Ancon and recognized by the Arbitral Award, I am compelled to abstain from voting on this section 6 and I make formal reservation of the rights of Chile.

"I wish to state at the same time, that in every matter outside these referred to, and particularly in the enactment of the registration and election regulations, the Commission can count on the cooperation of the Chilean member".

[Here follow the texts of the documents referred to in section 2 of the resolution.]

JOHN J. PERSHING

723.2515/1776e: Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, December 22, 1925—7 p. m.

For Pershing: Arbitrator by order allowing appeal, which is being cabled to you tonight,⁸⁶ has provided that until further order or determination by him, the Plebiscitary Commission shall proceed with performance of its duties under the opinion and award of March 4, 1925. In the circumstances, I suggest advisability of confining all activities and proceedings to work of preparatory nature necessary to avoid loss of time, and to make possible eventual carrying out of schedule embodied in Commission's resolution of December 9, should decision of Arbitrator affirm the resolution of December 9. I should not think it wise, however, to undertake any new measures likely to aggravate the situation during the appeal period which, probably, will be very brief. It is hoped that Arbitrator will be able to dispose of the certified appeal by January 15, 1926.

KELLOGG

BOUNDARY DISPUTES

Colombia and Nicaragua

717.2114/37

The Secretary of State to the Chargé in Nicaragua (Thurston)

No. 212

WASHINGTON, March 21, 1925.

SIR: With reference to the Legation's despatch No. 3 of January 6, 1925,⁸⁷ transmitting a note from the Minister of Foreign Affairs of Nicaragua⁸⁸ to the Secretary of State, in which the Minister of Foreign Affairs requested the good offices of the Secretary of State to persuade Colombia to submit to arbitration the question of the ownership of the San Andrés Archipelago, there is transmitted herewith a reply from the Secretary of State to be delivered by you to

⁸⁶ Arbitrator's order not printed.

⁸⁷ Not printed.

⁸⁸ José Andrés Urtecho.

the Nicaraguan Minister of Foreign Affairs.⁸⁹ An extra copy of the reply is transmitted for the files of the Legation. A translation of the note from the Minister of Foreign Affairs of Nicaragua to the Secretary of State is also transmitted for the files of the Legation.

You will observe that the Department has not considered it advisable to accede to Nicaragua's request to recommend to Colombia an arbitration dealing solely with the ownership of the San Andrés Archipelago. The Department considers that the proposal already made by Colombia in accordance with which Nicaragua would keep the Mosquito coast and the Corn Islands, and Colombia would keep the San Andrés Archipelago, would offer an equitable solution of the controversy. The Department will, therefore, be glad to have you discuss informally with the Nicaraguan Government the desirability of terminating this long-standing diplomatic controversy in this manner. Please report the outcome of this discussion to the Department.

I am [etc.]

FRANK B. KELLOGG

[Enclosure]

*The Secretary of State to the Nicaraguan Minister for Foreign Affairs
(Castrillo)*

WASHINGTON, March 21, 1925.

EXCELLENCY: I have the honor to acknowledge the receipt of your predecessor's note of December 29, 1924,⁹⁰ in which he informed me of the present situation of the controversy between the Governments of Nicaragua and Colombia relating to the ownership of the Mosquito coast and the adjacent islands, including especially the Corn Islands and the San Andrés Archipelago. I note that after failing to settle the controversy by diplomatic negotiations your Government accredited a legation to the Government of Colombia with instructions to lay before the Colombian Government the draft of a convention, a copy of which accompanies your predecessor's note;⁹¹ that this draft was not accepted by Colombia; that Colombia has now proposed a settlement, leaving to Colombia the San Andrés Archipelago and to Nicaragua the Mosquito coast and the Corn Islands;⁹² that the Nicaraguan Government has rejected this latter proposal; and that the Nicaraguan Government now finds itself constrained to request the good offices of the United States Government in order that the Gov-

⁸⁹ Salvador Castrillo. His occupancy of the Ministry of Foreign Affairs was brief, Dr. Urtecho resuming charge of the Ministry upon his removal.

⁹⁰ Not printed.

⁹¹ Printed in *Nicaragua y Colombia: Últimas comunicaciones sobre la cuestión Mosquita entre el Ministerio de Relaciones Exteriores y la Legación de Colombia* ([Managua?], Tipografía Progreso, 1925), p. 115.

⁹² See *ibid.*, pp. 121-122.

ernment of Colombia may consent to refer to arbitration the question of the ownership of the San Andrés Archipelago.⁹³

In reply I have the honor to inform you that the request of the Government of Nicaragua has received the most careful and friendly consideration. It would of course be inappropriate for this Government to express an opinion as to the force and validity of the arguments advanced by the Governments of Nicaragua and Colombia in the course of the diplomatic negotiations between them, especially as it does not have at hand all of the information necessary for a full consideration of the question. From such information as is now in the possession of this Government, however, it would appear that the Spanish colonial legislative and administrative dispositions, the interpretation and validity of which are in question, referred equally to the San Andrés Archipelago and to the Mosquito coast and the Corn Islands. It would thus appear that a decision in favor of either party based solely upon the *uti possidetis juris* of 1810 might be expected to apply with equal force to all of the territory in dispute. Under these conditions this Government does not feel that it could consistently urge upon the Government of Colombia the submission to arbitration of the question of the ownership of a portion only of this territory with the consequent relinquishment of whatever claim Colombia may have to the remainder.

This Government understands that the Archipelago of San Andrés has been occupied by Colombia since 1822, whereas Nicaragua has exercised jurisdiction on the Mosquito coast since the declaration of independence from Spain and has occupied the Corn Islands since about 1890. The proposal of the Colombian Government, which would recognize the sovereignty of Nicaragua over the Mosquito coast and the Corn Islands and the sovereignty of Colombia over the San Andrés Archipelago, would therefore make permanent a situation which has existed in fact, so far as the more important portions of the territory in dispute are concerned, practically since the achievement of the independence of the two Republics. Such an arrangement, furthermore, would set at rest any question as to the sovereignty of Nicaragua over the east coast of that Republic and the Corn Islands, territory which is obviously infinitely more valuable to Nicaragua than the San Andrés Archipelago. Without committing itself at this time to the expression of any opinion as to the intrinsic merits of the controversy, the Government of the United States is inclined to feel that a settlement on the basis indicated would afford an equitable

⁹³ For a statement of Nicaragua's case, see *Memorandum Explicativo de la Controversia entre Nicaragua y Colombia sobre el Dominio de las Islas de San Andrés* (Managua, 1924); also *Alcance al Memorandum Explicativo*, etc. (Managua, 1924).

solution of the matter. I need not say that this observation is made in the most friendly spirit and solely in the hope of promoting an amicable settlement on terms advantageous to both parties.

Accept [etc.]

FRANK B. KELLOGG

717.2114/39

The Chargé in Nicaragua (Thurston) to the Secretary of State

No. 19

MANAGUA, April 20, 1925.

[Received May 8.]

SIR: I have the honor to refer to the Department's instruction number 212, dated March 21, 1925, concerning the controversy between Nicaragua and Colombia with respect to the ownership of the San Andrés Archipelago, and to report that the note of March 21, 1925, from the Secretary of State which accompanied it was delivered to the Nicaraguan Minister of Foreign Affairs on April 14, 1925.

The Minister, Dr. Urtecho, appeared to be greatly disappointed by Mr. Kellogg's note, and indicated an unwillingness to discuss the desirability of terminating the controversy by accepting the proposal made by Colombia.

I have [etc.]

WALTER C. THURSTON

717.2114/47a

The Secretary of State to the Minister in Colombia (Piles)

No. 831

WASHINGTON, September 24, 1925.

SIR: With reference to the dispute between Colombia and Nicaragua with regard to the ownership of the [San] Andrés Archipelago, Great and Little Corn Island and the Mosquito Coast, which has been the subject of previous correspondence between the Department and the Legation, you are informed that the Minister of Nicaragua called recently at the Department and stated that his Government was desirous of submitting this question to the mediation of the Department of State and, if possible, to arbitration. He added that the Colombian Government had refused to accept arbitration but might be prepared to accept mediation. He hoped the State Department would take a friendly interest and endeavor through its influence to arrange for a friendly settlement of this question.

The Department advised the Minister that it would be glad to be of such assistance as might be possible in any way which would

be acceptable to both Nicaragua and Colombia and at the invitation of both parties.

You may, if you deem it advisable, discuss this matter informally with the Minister for Foreign Affairs and endeavor to ascertain the views of the Colombian Government with regard to the possible mediation of the United States, looking to the ultimate arbitration of this dispute.

It should be distinctly understood that this Government would require as a condition precedent to the submission of this dispute to arbitration through the good offices of the United States that both parties would agree that the award would be final and without appeal.

I am [etc.]

FRANK B. KELLOGG

717.2114/48

The Minister in Colombia (Piles) to the Secretary of State

No. 769

BOGOTÁ, November 19, 1925.

[Received December 12.]

SIR: With reference to the Department's instruction No. 831 of September 4 [24], 1925, in regard to the dispute between Colombia and Nicaragua, concerning the ownership of the San Andrés Archipelago, Great and Little Corn Islands and the Mosquito Coast, I have the honor to inform the Department that immediately following the receipt of this instruction, I called at the Foreign Office and, in the course of an informal conversation, acquainted Dr. Restrepo Sáenz of the desire of the Government of Nicaragua to submit the question of dominion over the above-mentioned territory to the mediation of the Department of State, with a view to ultimate arbitration of the dispute. I indicated that my Government would take a friendly interest in the matter and should both parties request its interposition, would endeavor to arrange a friendly settlement of the question, on the understanding that should arbitration be accepted, the parties must agree to consider the award as final and without appeal.

Dr. Restrepo accepted my representations in a friendly spirit but has not subsequently commented upon them.

I have [etc.]

SAMUEL H. PILES

Colombia and Peru⁸⁶

721.2315/142 : Telegram

The Secretary of State to the Ambassador in Brazil (Morgan)

[Paraphrase]

WASHINGTON, January 7, 1925—4 p.m.

1. You are referred to Department's instruction No. 850 of January 22, 1924,⁸⁶ and instruction No. 955 of December 11, 1924.⁸⁶

On December 12 Senhor Gracie, the Brazilian Chargé, left a confidential memorandum with the Secretary⁸⁵ regarding the treaty of March 24, 1922, concluded between Colombia and Peru,⁸⁷ and expressed the desire of his Government that the American Government lend its good offices to have treaty modified or replaced by another arrangement in which the interest of Brazil would not be affected.

This subject was informally discussed with the Colombian Minister who, acting upon instructions from his Government, has suggested the following as a basis of settlement:

1. That Brazil withdraw its memorandum to Peru protesting against Peru's ratification of the Colombia-Peru boundary treaty.

2. That the above treaty be ratified.

3. That Brazil and Colombia settle this boundary between Apaporis and Tabatinga.

Regarding this last point the Colombian Government presented the following for consideration:

The Apaporis-Tabatinga line represents, and has always represented, Brazil's maximum claim in this boundary dispute. An equitable solution would be to recognize as belonging to Colombia a section of territory east of this line. The Apaporis-Tabatinga line could, for instance, be divided into two sections: the first from Apaporis to the Putumayo River, and the other from the Putumayo to Tabatinga. The Government of Colombia would accept either the one or the other.

Colombia also desires to stipulate that if an agreement is reached on the boundary line between her and Brazil, the free navigation of the Amazon, the Putumayo, and the Caquetá Rivers must be established in perpetuity as well as in general all the rivers common to the two countries.

I handed to the Brazilian Chargé on January 6 a memorandum⁸⁵ embodying the Colombian suggestion and stating that, animated by

⁸⁶ Continued from *Foreign Relations*, 1924, vol. I, pp. 293-304.

⁸⁶ Not printed.

⁸⁶ *Foreign Relations*, 1924, vol. I, p. 303.

⁸⁷ League of Nations, *Treaty Series*, vol. LXXIV, p. 9.

the sincerest desire to be of service to both Governments in arriving at a satisfactory solution of the present difficulties, the Government of the United States would be glad to transmit the views of the Government of Brazil in the premises to that of Colombia, should this action be the desire of the Brazilian Government.

I read this memorandum to the Brazilian Chargé and asked him if he knew what his Government's attitude would be toward establishing the boundary by recognizing a section of land east of the Apaporis-Tabatinga line as Colombian territory. Senhor Gracie answered no, but said that he would cable to his Government for instructions.

I added that I took for granted that any settlement of this question would involve the withdrawal of Brazilian opposition to the Colombian-Peruvian treaty and I then stated confidentially that should the Government of Brazil decline to recognize as Colombian any territory east of the Apaporis-Tabatinga line, and should Brazil be willing to grant freedom of navigation of the rivers mentioned in perpetuity to Colombia, as was granted for 10 years by the Treaty of Commerce and Navigation signed on August 21, 1908, at Rio de Janeiro between Brazil and Colombia, I should be disposed to use my good offices to obtain Colombia's recognition of the Apaporis-Tabatinga line as had been done by the Colombian Executive in the unratified treaty of 1853 between Brazil and Colombia.

The Chargé assured me that he would regard my statement as strictly confidential and would not transmit it to his Government; you may, therefore, should the matter be discussed between the Brazilian authorities and yourself, state as your personal opinion that the Government of the United States might be disposed to use its good offices, should the Government of Brazil express its readiness to grant freedom of navigation of the rivers in question, to have the Apaporis-Tabatinga line recognized by Colombia. You will cable fully all developments.

HUGHES

721.2315/146 : Telegram

The Secretary of State to the Ambassador in Brazil (Morgan)

WASHINGTON, January 19, 1925—3 p. m.

3. Your No. 4, January 17, 1 p. m.⁹⁸ You will please say to the Minister for Foreign Affairs, and if necessary to the President, that as I am leaving office on March 4, it would be very gratifying to me should it be possible to settle the boundary question with Colombia before that time.

⁹⁸ Not printed.

While this Government is acting as a means of communication between interested parties, it is a medium of communication which is also profoundly interested in a just and prompt settlement. Please endeavor to have the matter given prompt consideration.

HUGHES

721.2315/146 : Telegram

The Secretary of State to the Ambassador in Brazil (Morgan)

[Paraphrase]

WASHINGTON, January 23, 1925—4 p. m.

5. The Colombian Minister has advised the Department that he has been authorized by his Government to accept a settlement of the Colombian-Brazilian boundary along the Apaporis-Tabatinga line on the following conditions:

1. Brazil to withdraw her opposition to ratification of the Colombian-Peruvian boundary treaty.

2. The boundary treaty to be ratified.

3. Brazil to grant to Colombia freedom of navigation in perpetuity of Amazon and the other rivers common to both countries.

The Department is not of the opinion that it should communicate officially to the Government of Brazil the willingness of the Government of Colombia that the boundary question be settled on the basis of the above conditions until some reply has been received on the Colombian proposal transmitted in its telegram No. 1, January 7, 4 p. m. Referring to the last paragraph of that telegram, you may, however, make the suggestion contained therein, and urge a prompt settlement on that basis.

HUGHES

721.2315/150 : Telegram

The Ambassador in Brazil (Morgan) to the Secretary of State

[Paraphrase]

RIO DE JANEIRO, January 24, 1925—6 p. m.

[Received 7:05 p. m.]

7. I have fully complied with instructions contained in Department's telegrams No. 1 of January 7, No. 3 of January 19, and No. 5 of January 23, including the statement that in my opinion the Government of Colombia would accept the Apaporis-Tabatinga line. The stumbling block appears to be the embarrassment that would be occasioned Brazil by having formally to withdraw her opposition to Peru's ratification of the Peruvian-Colombian boundary treaty.

The Minister has recovered from his illness but the President has been away from the Capital since last week and will probably not return until the end of January.

MORGAN

721.2315/150 : Telegram

The Secretary of State to the Ambassador in Brazil (Morgan)

[Paraphrase]

WASHINGTON, January 26, 1925—3 p. m.

6. Your telegram No. 7, January 24, 6 p. m. It is the Department's understanding that the opposition manifested by Brazil to the ratification of the Peruvian-Colombian boundary treaty arose from the feeling that Brazil's rights in the territory east of the Apaporis-Tabatinga line would be prejudiced thereby. Peru recognized Brazil's rights in this region by the treaty of 1851.² If now, by agreement with Colombia to establish the boundary on the Apaporis-Tabatinga line, Brazil obtains final recognition of her rights, the *raison d'être* of her protest would disappear and the Department cannot understand why Brazil should oppose withdrawing her objection, having obtained her object in opposing the ratification of the boundary treaty.

One document could cover all the points; namely, a procès-verbal of a meeting of the Brazilian Chargé, the Colombian Minister, and the Peruvian Ambassador in the office of the Secretary of State. At this meeting the Secretary would refer first to the matter under discussion and to the fact that all three Governments had requested his good offices to bring it to a settlement, and then would suggest as a way of solving the difficulty (1) the withdrawal of Brazil's opposition to ratification of the boundary treaty, (2) the ratification of the treaty by Peru, and (3) the signing of a convention between Brazil and Colombia establishing the boundary between those countries along the Apaporis-Tabatinga line, Brazil granting to Colombia the right of free navigation of the Amazon and other rivers common to both countries. Then the Brazilian Chargé would state that his Government had instructed him to inform the Peruvian Ambassador that Brazil withdraws its opposition to the boundary treaty between Colombia and Peru on the understanding that, immediately upon the ratification of that treaty by Peru, Colombia will sign a convention fixing the Brazilian-Colombian boundary on the Apaporis-Tabatinga line and that, in the same convention, Brazil is ready to grant freedom of navigation on the rivers in question to Colombia. Then the Colombian Minister would state that he was gratified to learn Brazil had

² *British and Foreign State Papers*, vol. XLII, p. 1308.

withdrawn her objection to the Peruvian treaty and that, upon ratification of the treaty by Peru, the Colombian Government would immediately conclude a treaty with Brazil to establish the boundary on the Apaporis-Tabatinga line on the conditions specified, that is, Brazil to grant freedom of navigation to Colombia on the Amazon and the other rivers common to both countries. Then the Peruvian Ambassador would state that his Government authorized him to say that, in view of the withdrawal of Brazil's protest against the treaty, the Government of Peru would immediately urge upon the Peruvian Congress the ratification of the boundary treaty with Colombia. There would then be drawn up a procès-verbal of the meeting in four copies which would be signed by the Secretary of State, the Brazilian Chargé, the Colombian Minister, and the Peruvian Ambassador. This procedure would follow the method used to bring about the establishment of diplomatic relations between Colombia and Panama and the settlement of the boundary between those countries.*

As this method appears to offer an appropriate way of disposing of this difficulty, the Department trusts that it will be satisfactory to the Brazilian Government and hopes that you will be able to obtain the prompt agreement of that Government. Cable results of your efforts.

HUGHES

721.2315/154 : Telegram

The Ambassador in Brazil (Morgan) to the Secretary of State

[Paraphrase]

RIO DE JANEIRO, February 6, 1925—noon.

[Received 2:47 p. m.]

10. The Foreign Office has accepted the Apaporis-Tabatinga line as establishing the boundary between Brazil and Colombia, and will agree to the free navigation of the Amazon and the other rivers common to both countries. This information will be officially transmitted to the Department as soon as the President gives his approval. It is requested that no announcement be made at present.

MORGAN

721.2315/159 : Telegram

The Secretary of State to the Ambassador in Brazil (Morgan)

WASHINGTON, February 21, 1925—8 p. m.

15. Brazilian Chargé this morning left a note at the Department⁴ stating that Brazil would have no reason to oppose Peruvian-Colom-

* See *Foreign Relations*, 1924, vol. I, pp. 287 ff.

⁴ Not printed.

bian treaty if Peru would assure Brazil that in any arrangement for settlement of its boundary question with Colombia it will make as a condition recognition of the Apaporis-Tabatinga line established by the Treaty of 1851 and the consequent dominion of Brazil over the territory to the east of that line. The note added that if Colombia recognizes the above line Brazil will be pleased to grant Colombia freedom of navigation on the rivers common to the two countries. The Department therefore suggests a meeting in the Secretary of State's office between the Secretary of State, the Peruvian Ambassador, the Colombian Minister and the Brazilian Chargé, a Procès Verbal of the same to be drawn up in the following terms:

"Doctor Hernán Velarde, Doctor Enrique Olaya, and Mr. Samuel de Sousa Leão Gracie, Ambassador Extraordinary and Plenipotentiary of Peru, Envoy Extraordinary and Minister Plenipotentiary of Colombia, and Chargé d'Affaires ad interim of Brazil, respectively, having on the invitation of the Secretary of State of the United States, met with him in his office at the Department of State, Washington, at o'clock on February . . . , 1925:

Mr. Hughes stated that he had invited Messrs. Velarde, Olaya and Gracie to his office to discuss the boundary treaty between Colombia and Peru signed in Lima March 24, 1922, against the ratification of which formal protest had been lodged in Lima by the Brazilian Government. Mr. Hughes stated that the three Governments concerned had requested his good offices in the settlement of this question and, after carefully considering the matter, he desired to suggest as a solution of the difficulty the following:

First. The withdrawal by the Government of Brazil of its objection to the ratification of the boundary treaty between Colombia and Peru;

Second. The ratification by Colombia and Peru of the above mentioned boundary convention;

Third. The signing, immediately after the ratification of the above convention, of a convention between Brazil and Colombia by which the boundary between those countries would be agreed to on the Apaporis-Tabatinga line, Brazil agreeing to establish in perpetuity in favor of Colombia freedom of navigation on the Amazon and other rivers common to both countries.

Mr. Gracie then stated that he was authorized by his Government to accept the friendly suggestion which the Secretary of State had just made and that in consequence he was instructed by his Government to inform the Peruvian Ambassador that Brazil withdraws its opposition to the Colombian-Peruvian treaty above mentioned on the understanding that Peru will make as a condition in settling its boundary question with Colombia, the recognition of the Apaporis-Tabatinga line as described by the treaty of 1851 and in consequence Brazilian dominion over the territory to the east thereof. Mr. Gracie added that should Colombia agree to recognize the above mentioned Apaporis-Tabatinga line Brazil was ready to agree in the same convention to establish in perpetuity in favor of Colombia freedom of

navigation on the River Amazon and other rivers common to both countries.

Doctor Olaya then stated that he was authorized by his Government to accept the friendly suggestion just made by the Secretary of State. Doctor Olaya added that he was authorized to state that on the condition that the treaty of March 24, 1922, between Colombia and Peru, should be ratified by the Government of Peru the Government of Colombia would agree to conclude immediately thereafter a treaty with Brazil recognizing as the frontier between the two countries the village of Tabatinga, and from that place to the north the direct line until it meets the River Yapurá at its junction with the Apaporis, and in consequence Brazilian dominion over the territory to the east thereof, it being understood that Brazil in the same treaty would agree to establish in perpetuity in favor of Colombia freedom of navigation on the Amazon and other rivers common to both countries.

Doctor Velarde then stated that he also was authorized by his Government to express its acceptance of the friendly suggestion which the Secretary of State had just made and that as a consequence of the assurance just given by the Colombian Minister that, immediately upon the ratification of the boundary treaty of March 24, 1922 by Peru, Colombia would conclude a treaty with Brazil recognizing as the frontier the Apaporis-Tabatinga line described by the treaty of 1851 and in consequence Brazilian dominion over the territory to the east thereof, thus meeting the condition upon which the Brazilian Government withdrew its protest to the ratification of the Colombian-Peruvian treaty of March 24, 1922, his Government would immediately advise the Peruvian Congress thereof, repeating at the same time its recommendation that it approve the boundary treaty with Colombia.

The Ambassador of Peru, the Minister of Colombia, and the Chargé d'Affaires ad interim of Brazil then stated that they desired to express the gratitude of their respective Governments for the good offices of the Secretary of State exerted in such an amicable manner in the interest of harmony between the three interested Republics in order to adjust the questions considered in the meeting recorded by this Procès Verbal.

This Procès Verbal of the meeting, drawn up in quadruplicate, was signed by the Secretary of State, the Ambassador of Peru, the Minister of Colombia, and the Chargé d'Affaires ad interim of Brazil. One copy will be retained by the Secretary of State, who will send of the remaining three copies, one each to the Ambassador of Peru, the Minister of Colombia, and the Chargé d'Affaires ad interim of Brazil, respectively."

Please communicate this text immediately to the Minister for Foreign Affairs and express the hope that he will find it possible to send instructions to the Brazilian Chargé in Washington without delay to take part in the meeting in the manner set forth above and to sign the Procès Verbal.

HUGHES

721.2315/159a : Telegram

*The Secretary of State to the Ambassador in Peru (Poindexter)*⁵

WASHINGTON, February 21, 1925—8 p. m.

2. The Department has recently held conversations with the Peruvian Ambassador, the Colombian Minister and the Brazilian Chargé regarding the settlement of the situation created by the Brazilian protest against the ratification of the Colombian-Peruvian boundary treaty. The Colombian and Peruvian Governments appear to be in virtual accord but the Peruvian Ambassador has not yet received instructions from his Government. Department very anxious to conclude matter before March 4, and suggests a meeting in Secretary of State's office between the Secretary of State, the Peruvian Ambassador, the Colombian Minister and the Brazilian Chargé, a Procès Verbal of same to be drawn up in the following terms:

[Here follows the text of procès-verbal quoted in the Department's telegram No. 15, February 21, 8 p. m., to the Ambassador in Brazil, *supra*.]

Please communicate this text immediately to the Minister for Foreign Affairs and express the hope that he will find it possible to send instructions to the Peruvian Ambassador in Washington without delay to take part in the meeting in the manner set forth above and to sign the Procès Verbal.

HUGHES

721.2315/161 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, February 23, 1925—7 p. m.

[Received February 24—9 a. m.]

3. Your February 21, 8 p. m. Minister of Foreign Affairs out of town until Wednesday. I saw the President immediately and informed him fully, leaving written memorandum. President stated he would send instructions Minister to return at once and would inquire whether Peruvian Foreign Office had any communication from Brazil on the subject. President stated withdrawal by Brazil of its protest would remove only objection he had to ratification of the treaty; that arrangement as stated in proposed procès-verbal seemed a happy solution of the question and that if such an agreement were reached he would be glad to advise the Peruvian Congress to that

⁵The same, except for substitution of the words "Colombian Minister" for "Peruvian Ambassador" in the last paragraph, to the Minister in Colombia (file No. 721.2315/161d).

effect and repeat recommendation that the pending treaty be ratified on condition as stated in proposed procès-verbal.

The President desired to consult with Minister of Foreign Affairs but indicated he would cable instructions to Peruvian Ambassador in Washington as suggested. I called his attention especially to need of quick action in order dispose of matter before March 4th.

POINDEXTER

721.2315/163 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, February 24, 1925—4 p. m.

[Received 5:15 p. m.]

4. My 3, February 23, 7 p. m. Saw Minister for Foreign Affairs. He states it is impossible to take action until he can hear from Rio de Janeiro. Says Peru has been having conversations with Brazilian Government on this subject and cannot suddenly break them off without consultation. Expects to be able to give definite answer tomorrow.

POINDEXTER

721.2315/162 : Telegram

The Ambassador in Brazil (Morgan) to the Secretary of State

RIO DE JANEIRO, February 24, 1925—6 p. m.

[Received 9:20 p. m.]

16. Conversed with Minister for Foreign Affairs this afternoon regarding text of procès-verbal contained in Department's telegram 15 of February 21, 8 p. m.

Dr. Pacheco^a showed me copy of telegram sent last night to Gracie approving the said procès-verbal but containing suggested verbal changes of which the following are the most important: In paragraph two of the procès-verbal he wishes that "consider" be substituted for "discuss" and that "formal protest" shall be replaced by the English translation of the Portuguese "ponderações de caracter amistoso." Pacheco also wishes that this same phrase be employed in the seventh paragraph of the procès-verbal after the words "to inform the Peruvian Ambassador that Brazil withdraws" and in the ninth paragraph where the word "protest" is also employed. He suggests that there be a more explicit description of boundaries to be included in the proposed treaty between Colombia and Brazil and that instead of the phrase "perpetuity" in paragraph six the

^a Brazilian Minister for Foreign Affairs.

description included in the Brazilian-Peruvian treaty of 1909 shall be employed. Brazil wishes especially to eliminate the impression that she "protested" against the ratification of the Peruvian-Colombian treaty.

MORGAN

721.2315/162 : Telegram

The Secretary of State to the Ambassador in Brazil (Morgan)

WASHINGTON, February 25, 1925—4 p. m.

16. Your 16, February 24, 6 p. m. Gracie presented Brazilian proposed modifications yesterday afternoon. He was told that the minor modifications including change of "formal protest" to "observations of a friendly nature" would be submitted to Colombian Minister and Peruvian Ambassador and if acceptable to them would of course be acceptable to the Department. As regards modified description of boundary and navigation rights it appeared that this would require submission to Bogotá and Lima and hence would delay matter to such an extent as to make conclusion before March 4, impossible. He telegraphed to this effect last night and this morning received cable from his Government stating that it did not desire to cause any delay and would accept the Procès Verbal as drawn up but would like to have "formal protest" modified. Colombian Minister and Peruvian Ambassador this morning accepted the minor modifications proposed and Gracie is telegraphing this afternoon for authorization to sign. Colombian Minister has received authorization. Ambassador at Lima reports Peruvian Government waiting word from Rio before sending instructions. Please endeavor to have instructions to Gracie expedited and if possible to have Brazilian Minister in Lima so informed for information of Peruvian Government.

Please express to Minister for Foreign Affairs Department's appreciation of his cooperation in withdrawing modifications of boundary line and navigation rights.

HUGHES

721.2315/163 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

WASHINGTON, February 25, 1925—4 p. m.

3. Your 4, February 24, 4 p. m. Colombian Minister has received instructions to sign Procès Verbal. Brazilian Chargé was instructed to request certain modifications of form especially changing reference

to Brazilian "formal protest" to read "observations of a friendly nature". These modifications being purely matters of form have been accepted by Colombian Minister; Peruvian Ambassador also expresses his agreement therewith. Department is encouraged to believe that instructions will be sent Brazilian Chargé tomorrow to sign agreement. Please endeavor to have instructions sent without delay to Peruvian Ambassador to sign Procès Verbal.

HUGHES

721.2315/168 : Telegram

The Ambassador in Brazil (Morgan) to the Secretary of State

RIO DE JANEIRO, February 26, 1925—10 a. m.

[Received February 26—9:45 a. m.]

18. Department's telegram 16, February 25, 4 p. m. Foreign Office informs me that Gracie has been instructed by telegraph to sign procès-verbal and that instructions are being sent to Brazilian Chargé d'Affaires in Lima to inform Peruvian Government and American Ambassador there of this fact.

Minister for Foreign Affairs appreciates the Secretary's courtesy in accepting minor modifications in the procès-verbal including alteration of words "formal protest" and in understanding Brazil's reasons therefor.

MORGAN

721.2315/169 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, February 26, 1925—4 p. m.

[Received February 27—1:05 a. m.]

5. Your 3, February 25, 4 p. m. Had conversation with the President and Salomón⁷ together. President expressed surprise at news that Brazilian Government was reported as favorably inclined to agreement outlined in procès-verbal since Peruvian Government was unable to get corroboration of this from Brazil though request had been made by Peruvian Government by cable to Rio de Janeiro for answer of Brazilian Government. He stated that proposed formal change in procès-verbal was satisfactory though as a matter of fact Brazil had made formal protest on account of which ratification of the treaty had been suspended by Peru. President promised he would immediately press Brazil for reply and stated further that latest advice from Brazil was that Brazil would not agree to establish free

⁷ Peruvian Minister for Foreign Affairs.

navigation of Amazon and other rivers common to the two countries in favor of Colombia except on condition that strip of land bordering the Amazon allocated to Colombia by pending treaty be retained by Peru. Foreign Minister stated his latest information from Rio de Janeiro was Brazil would not instruct its representative to sign procès-verbal and expressed surprise at news from Washington. Foreign Minister stated further that Peru could not decide the question of instructing Ambassador Velarde until he had heard from Brazilian Government. Please refer to my despatch No. 312, November 17th, 1924, 2d paragraph, page 7.^a I beg to suggest that Department approach Brazilian Government through Ambassador at Rio de Janeiro as to Peruvian representations.

Both President and Minister for Foreign Affairs expressed surprise at statement that all three countries had requested friendly offices of the Department and stated that no such request had been authorized by Peruvian Government.

POINDEXTER

721.2315/166 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

WASHINGTON, February 26, 1925—6 p. m.

4. Ambassador Rio telegraphs instructions being sent Brazilian Chargé to sign Procès Verbal and that Brazilian Minister in Lima is also being advised to this effect for information of Peruvian Government. Colombian Minister already authorized to sign. Please endeavor to have instructions sent Peruvian Ambassador so that Procès Verbal may be signed Saturday^a if possible.

HUGHES

721.2315/171 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, February 27, 1925—noon.

[Received 2:17 p. m.]

6. Minister for Foreign Affairs Salomón promises to send instructions to Ambassador Velarde today with modifications changing the words "repeating at the same time its recommendation that it approve" to "allow to take its constitutional course in Congress". Minister of Foreign Affairs stated further that even though the President should recommend to Congress the approval of the treaty

^a The paragraph to which reference is made, has been omitted from the telegram as printed in *Foreign Relations*, 1924, vol. I, p. 296.

^b February 28.

as it stands Congress would refuse to do so. He stated there was great intensity of feeling against that portion of the treaty giving to Colombia the tract of land bounded by the Amazon on the south, the Amazon-Tabatinga line on the east, the Putumayo on the north and the line established by the pending boundary treaty on the west. He further states that if Colombia would agree to a modification of the treaty so as to leave this tract of land under Peruvian dominion and to fix instead the Putumayo River to the Tabatinga-Amazon line as the boundary between the two countries, the Peruvian Congress, he felt sure, would ratify the treaty within 15 days and that the Peruvian Executive Government would use all means in its power to bring that about. The Minister stated that he would cable Ambassador Velarde to call this suggestion to your consideration informally. He further stated that his latest advices from Brazil were to the effect that the latter country would not establish free navigation of the Amazon in favor of Colombia if the Peruvian-Colombian treaty should be ratified as it now stands, but that Brazil would agree to establish such free navigation in favor of Colombia if the modification in the treaty suggested above should be made. The Minister expressed the deep appreciation of the Peruvian Government for the friendly offices of the Secretary of State in attempting to bring about an agreement in this matter.

POINDEXTER

721.2315/169: Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

WASHINGTON, February 27, 1925—4 p. m.

5. Your 5, February 26, 4 p. m. Department officially advised by Brazilian Chargé that he has instructions to sign Procès Verbal. Chargé also informed by his Government that it is telegraphing this information to Brazilian Chargé in Lima. You will please advise President and Minister for Foreign Affairs of above. Peruvian Ambassador has received telegram from his Government saying it has been advised from Rio that he (Velarde) has accepted Procès Verbal and asking explanation. In order to avoid any possible misunderstanding please endeavor to have Brazilian Chargé accompany you to President and Minister for Foreign Affairs and advise them that his Government has instructed Brazilian Chargé in Washington to sign the agreement. Cable when this is done.

Your last paragraph. Peruvian Ambassador called on Secretary of State on December 12, 3 p. m.,¹⁰ and stated that difficulty had

¹⁰ For memorandum by the Secretary of State of the conversation with the Peruvian Ambassador, see *Foreign Relations*, 1924, vol. 1, p. 303.

arisen with respect to the boundary explaining that Brazil had taken exception to Peruvian-Colombian treaty on the ground that it affected her rights. He stated that Peru was very desirous that the whole matter should be harmoniously adjusted and knowing the wish of the Government of the United States to do all in its power to promote friendly relations in Latin America the Ambassador asked if the Secretary would look into the question and see if some suggestion could be made which would provide a harmonious solution. The Secretary of State said that he greatly appreciated the Ambassador's suggestion; that the Government of the United States did not desire to interfere in matters in which it was not concerned, but that the Government was always desirous to aid by its friendly offices in the settlement of differences when other governments so desired. The Secretary said that he would look into the matter with which he was already to some extent conversant and that within a short time he would ask the Ambassador to come in and talk it over. The Ambassador expressed his appreciation.

The Colombian and Brazilian Governments formally requested this Government's good offices¹¹ and on the basis thereof the proposal was made which is now before the Peruvian Government.

The Peruvian Ambassador today confirmed the above statement, as made under explicit instructions from his Government. This Government is therefore much surprised at and at a loss to understand statement of President and Minister for Foreign Affairs that Peru had not requested the friendly offices of the Department.

Your despatch 312, November 17, 1924,¹² would appear to indicate that Brazil's objection to the treaty and disinclination of Peru to take any action which might be distasteful to Brazil was only cause of Peru withholding ratification of the treaty. Your No. 3, February 23, 6 [7] p. m., indicates that President Leguía would consider withdrawal by Brazil of its protest as removing his only objection to the ratification of the treaty and that arrangement as stated in Procès Verbal seemed a happy solution of the question and that if such an agreement were reached he would be glad to advise the Peruvian Congress to that effect and repeat recommendation that the pending treaty be ratified. Now that this condition has been met by the withdrawal of Brazil's opposition you will please recall to President Leguía his views as expressed in your telegram above mentioned and point out that in carrying out the agreement he will be complying with the desires of the two neighboring Republics of Brazil and Colombia and will be contributing to the satisfactory solution of two

¹¹ See note from the Colombian Legation, Nov. 28, 1924, and memorandum by the Secretary of State of a conversation with the Brazilian Chargé, Dec. 12, 1924, 3:30 p. m., *Foreign Relations*, 1924, vol. I, pp. 300 and 304.

¹² *Ibid.*, p. 296.

more South American boundary disputes. Please request prompt instructions to Ambassador Velarde to sign the Procès Verbal as Department is most anxious to conclude matter before March 4.

HUGHES

721.2815/171 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

WASHINGTON, February 27, 1925—5 p. m.

6. Your 6, February 27, noon. Department is surprised at the suggestion made for modification of the Peruvian-Colombian treaty. This was signed by the Peruvian Government, has been submitted to the Congresses in both Colombia and Peru and has been approved by the Colombian Senate. The whole arrangement depends upon the ratification of this treaty by Peru. The Brazilian Government has definitely accepted to give Colombia navigation rights in question and has never made any proposal to this Government in the negotiations leading up to the acceptance of the present Procès Verbal to have the Colombian-Peruvian treaty modified. However any discussion on this point is now unnecessary as Brazil has definitely accepted the Procès Verbal as drafted.

Please call upon President Leguía immediately recalling to him the statement that he made to you as reported in your No. 3, February 23, 7 p. m., that withdrawal by Brazil of its protest would remove his only objection to the treaty; that arrangement as stated in proposed Procès Verbal seems a happy solution of the question and that if such an arrangement were reached he would be glad to advise the Peruvian Congress to that effect and to repeat recommendation that the pending treaty be ratified on conditions stated in Procès Verbal. You will make every proper endeavor to have instructions sent to Señor Velarde to sign the Procès Verbal as drafted.

HUGHES

721.2815/178 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, February 28, 1925—3 a. m.

[Received 9 a. m.]

8. Your 5, February 27, 4 p. m.; 6, February 27, 5 p. m. Saw the President at midnight. He expressed regret for statements made by Minister for Foreign Affairs Salomón reported in my 6, February 27 and stated that statements suggesting modification of treaty, etc.,

of Minister for Foreign Affairs were made without consultation with him and that he (the President) did not approve of them but on the contrary he had always been in favor of the ratification as signed without modifications and was still of the same opinion. He further stated the Minister for Foreign Affairs had no means of knowing what the action of Congress would be. The President suggested some changes in the language of the proposed procès-verbal which he said he regarded as mere formalities for the purpose of protecting the sensibilities of the Peruvian Congress, that the draft of his instructions to Ambassador Velarde authorizing him to sign the procès-verbal and stating the proposed modifications therein would be ready Saturday forenoon and would then be immediately cabled to the Ambassador. Congratulations upon your splendid efforts in this matter and the great measure of success you have attained.

POINDEXTER

721.2315/175 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, February 28, 1925—1 p. m.

[Received 1:30 p. m.]

9. Section 1. My 8, February 28, 3 p. m. [*a. m.*] Minister for Foreign Affairs assures me instructions will be cabled Velarde before 1 p. m. today.

POINDEXTER

721.2315/175 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, February 28, 1925—3 p. m.

[Received 5:45 p. m.]

9. Section 2. At 11:20 this morning the Minister for Foreign Affairs under instructions of the President handed me a copy of his proposed instructions to Ambassador Velarde. Upon examination I found the second paragraph of the proposed procès-verbal omitted, namely: "the ratification by Colombia and Peru of the above-mentioned boundary convention" and also omitted from the third paragraph the words "immediately after the ratification of the above convention." After much conversation and insistence I finally secured an agreement from the Minister, after he had consulted with the President, to reinsert in his instructions to the Peruvian Ambassador the aforesaid second paragraph of the suggestions of the Secre-

tary of State as I pointed out that that was the essential feature of the entire negotiations.

Both the President and the Minister for Foreign Affairs were insistent upon changing the paragraphs of the procès-verbal containing the remarks of Peruvian Ambassador so as to read as follows:

"Doctor Velarde then stated that he also was authorized by his Government in view of the withdrawal by Brazil of its friendly observation upon which consideration of the treaty was suspended to express his acceptance of the friendly suggestion which the Secretary of State had just made, in the sense that consideration of the treaty by the Peruvian Congress would be resumed and it would take its regular constitutional course before that body."

Both the Minister and the President stated that the greater part of the language eliminated from Dr. Velarde's remarks was a repetition and mere recital and that as it refers to matters purely relating to Brazil and Colombia with which Peru had no concern, they preferred to make no mention of it. Both were quite fixed in making the change reported in my number 6, February 27 noon by which "take its constitutional course" is substituted for "recommendation that it approve".

POINDEXTER

721.2315/178a : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

WASHINGTON, February 28, 1925—11 p. m.

8. Peruvian Ambassador has received instructions to sign Procès Verbal with following modifications:

1. In the third suggestion of the Secretary of State omit the words "immediately after the ratification of the above treaty."

2. In statement of Colombian Minister the words "should be ratified by the Government of Peru" to read "should be ratified by both Governments".

3. In the statement of Doctor Velarde delete whole paragraph and substitute following: "Doctor Velarde then stated that he also was authorized by his Government in view of the withdrawal by Brazil of its friendly observations upon which consideration of the treaty was suspended to express its acceptance of the friendly suggestion which the Secretary of State had just made in the sense (and to state that (?)) consideration of the treaty by the Peruvian Congress would be resumed and it would take its regular constitutional course before that body."

Colombian Minister definitely refuses first modification as this was a *sine qua non* of his Government. He gladly accepted second and cannot accept third without communicating with his Government to

whom he is sure it will not be acceptable. Brazilian Chargé is unable to accept any modifications without referring matter to his Government. He thinks it possible that second suggestion might be acceptable but greatly doubts whether the others will be.

Please call upon President Leguía and point out to him that of the three countries concerned Peru is asked to do the least. Colombia is asked to give up its pretensions to land east of the Apaporis-Tabatinga line; Brazil to grant Colombia freedom of navigation on Amazon and other rivers common to both countries. All Peru is asked to do is to take part in this meeting to receive the withdrawal of Brazil's observations against the Colombian-Peruvian treaty on certain conditions, to hear Colombian Minister say his Government is willing to meet those conditions and then for Peruvian Ambassador to state that in view thereof his Government will advise its Congress of this fact repeating the recommendation that Congress approve the boundary treaty with Colombia already signed by Peru and submitted to its Congress. There appears to be nothing in the Procès Verbal that injects any new element into the situation as far as Peru is concerned. The insistence of the Peruvian Government on the modifications will make it necessary to re-open negotiations with Bogotá and Rio thus making it impossible to sign the Procès Verbal by March 3. You will please explain to him again the desire if possible to bring about this amicable settlement before I leave office on March 4, which means the Procès Verbal must be signed not later than Tuesday afternoon, March 3. In case all Governments were in agreement it had tentatively been arranged to sign on Monday afternoon at 4 o'clock. Should the President feel that he can instruct Señor Velarde to sign the Procès Verbal it will be appreciated if instructions to that effect could be sent on Sunday in order that it may be signed on Monday.

In a telegram to the Peruvian Ambassador sent yesterday, which was superseded by instruction above mentioned, Señor Salomón informed Velarde it would be contrary to the Peruvian constitution to recommend to Congress the approval of the treaty. Should this contention again be advanced you will call attention to the statement made to you by Minister for Foreign Affairs reported in your No. 6, February 27, noon, that should Colombian-Peruvian treaty be modified as he suggested "the Peruvian Congress, he felt sure, would ratify the treaty in 15 days and that the Peruvian Executive Government would use all means in its power to bring that about." If the Executive can make the recommendation in one case there would appear to be no constitutional reason why it cannot do it in the other.

You may also point out that the agreement of the Executive as provided in the Procès Verbal to renew its recommendation of approval would appear to be an undertaking well within the province

of the Executive and in no manner interfering with the prerogatives of the legislative branch whereas the third modification suggested by the Peruvian Government that "consideration of the treaty by the Peruvian Congress would be resumed" is a definite undertaking on the part of the Executive for the legislative branch.

You will please state to President Leguía that the Department is making this last effort to bring about a friendly agreement between the three countries concerned and that it would very much regret to have to inform Brazil and Colombia that the Department's good offices had been unfruitful because of the apparent disinclination of Peru to accept the friendly suggestion proposed.

HUGHES

721.2315/176: Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, March 1, 1925—10 p. m.

[Received 11:45 p. m.]

10. Your 8, February 28, 11 a. m. [p. m.] Immediately upon its receipt I requested and was granted an interview with the President and had a long conversation with him in which I urged all points suggested by you and presented fully advantages to Peru to lend aid in composing the differences between the three countries.

In respect to the third modification of the procès-verbal contained in the instructions of the Peruvian Government to Doctor Velarde the President agreed to substitute the following:

"Doctor Velarde then stated that he also was authorized by his Government to express its acceptance of the friendly suggestion which the Secretary of State had just made and that as a consequence of the assurances just given his Government would immediately advise the Peruvian Congress thereof—repeating at the same time its recommendation that it approve the boundary treaty with Colombia."

The President was immovable in his insistence upon the first and second modifications of the procès-verbal and I was unable to persuade him to make any other change in his instructions the [to] Ambassador Velarde except that in the third modification of the procès-verbal just stated.

In the course of his conversation the President stated several times that if the procès-verbal should be signed by the representatives of the three countries in the modified form proposed in his instructions to the Peruvian Ambassador it was his intention to repeat his recommendation for the approval of the treaty and urge it upon the Peruvian Congress.

The President urges that if the language "immediately after the ratification of the above treaty" should be retained in the third suggestion of the Secretary of State as set forth in the proposed procès-verbal it would immediately make Peru the object of pressure both by Brazil and Colombia and deeply involve her in the conflicting interests of those two countries. . . .

The President with a great gesture of earnestness and sincerity stated that he was willing to sign with Colombia and Brazil an agreement to submit all of the matters involved in the proposed procès-verbal to the Washington Government (meaning, I presume, the President) and stated that he was willing to sign for that purpose any protocol drawn up by the Secretary of State and emphasized again his trust and confidence in the Washington Government and his leadership in the policy of submitting South America[n] international differences to the arbitration of that Government.

I urged upon the President [omission?] maintaining that signing by the representatives of Brazil and Colombia under explicit instructions from their Governments of the agreement contained in the proposed procès-verbal would make it impossible for either of them to embarrass Peru in the manner pointed out by him or to involve Peru in the pressure of conflicting interests between those countries if Peru really desired the ratification of the treaty which had been signed by the Executives of the Peruvian and Colombian Governments. The President again asserted his desire that the treaty should be ratified and stated emphatically it was his intention to repeat his recommendation to that effect to the Peruvian Congress but reiterated his assertion that he could not possibly agree to the procès-verbal without the modifications stated above and I believe his position in this respect unalterable.

The possibility occurs to me of a supplementary and separate agreement between the representatives of Colombia and Brazil in respect to the matters affecting the rights only of those two countries, in view of the fact that President Leguía is agreeing to the only action required of the Peruvian Government by the procès-verbal, namely, to advise the Peruvian Congress of the withdrawal of the objections made by Brazil to renew his recommendation that Congress approve the pending treaty with Colombia.

POINDEXTER

721.2815/176 : Telegram

*The Secretary of State to the Ambassador in Brazil (Morgan)*WASHINGTON, *March 2, 1925—2 p. m.*

17. Peruvian Government will accept Procès Verbal only on following condition:

1. That in third proposal of Secretary of State the words "immediately after the ratification of the above treaty" be deleted.

2. In the second sentence of the declaration of the Colombian Minister that the words "should be ratified by the Government of Peru" be changed to read "should be ratified by both Governments."

3. That the following be substituted for the declaration of the Peruvian Ambassador: "Doctor Velarde then stated that he also was authorized by his Government to express its acceptance of the friendly suggestion which the Secretary of State had just made and that as a consequence of the assurances just given his Government would immediately advise the Peruvian Congress thereof, repeating at the same time its recommendation that it approve the above mentioned boundary treaty with Colombia."

Colombian Minister definitely accepts on behalf of his Government second and third modifications and also the first modification on the understanding that in the note of the Secretary of State transmitting to the representatives of Brazil, Colombia, and Peru the Procès Verbal it be stated with reference to the third suggestion of the Secretary that it is of course understood that the signing of the Brazilian-Colombian convention will follow the ratification by Colombia and Peru of the above mentioned treaty. The note would add that the Colombian Minister has repeated to the Department the assurance given by him in the Procès Verbal that his Government is ready to sign the Brazilian-Colombian treaty immediately after the ratification by Peru of the Peruvian-Colombian treaty.

Gracie unable to accept without instructions from his Government for which he is cabling. As he may be delayed in sending his cable on account of luncheon at Pan American Union in honor of Secretary of State followed by a meeting of the Board of Governors of the Pan American Union, please communicate above as soon as possible to Minister for Foreign Affairs. Department hopes that he will authorize Gracie to sign on above conditions. It may be pointed out that while Peruvian Ambassador's statement omits reference to Brazilian condition for withdrawal of its objections to Colombian-Peruvian treaty, Brazil would appear to be fully covered by the direct assurance given by the Colombian Minister that his Government agrees to conclude immediately after the ratification of the Colombian-Peruvian treaty the treaty with Brazil recognizing the Tabatinga-Apaporis line and Brazilian dominion over the territory to the east

thereof. Peru's objection to making reference to this in its statement is that matter is one that concerns Brazil and Colombia only.

For your information it may be said that there has been a very ample exchange of telegrams between the Department and the Embassy in Lima during the last few days and the above represents the most that it has been possible to obtain from Peru. Procès Verbal should be signed tomorrow afternoon. Please endeavor to expedite Brazilian Government's reply.

HUGHES

721.2315/178 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, March 2, 1925—4 p. m.

[Received 4:50 p. m.]

11. My 10, March 1, 10 a. m. [*p. m.*] Colombian Minister called on me today and asked my advice as to whether he should advise his Government to authorize signing of procès-verbal as modified according to latest proposals of Peruvian Government, as reported in my above cablegram. I answered him that in view of his question I was of the opinion that it would be advantageous to his Government to instruct the signing of the modified procès-verbal.

POINDEXTER

721.2315/178 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

WASHINGTON, March 2, 1925—8 p. m.

9. Your 10, undated [*March 1, 10 p. m.*]. Peruvian Ambassador has received instructions from his Government merely stating that President of Peru had explained to you why it was impossible for him to change his opinion regarding the withdrawal of his first objection. Nothing was said about the second objection nor regarding the substitution for his third objection of the text transmitted in the third paragraph of your telegram.

[Paraphrase.] If instructions are sent as outlined in your No. 10, the Department will be able to obtain the consent of Brazil and Colombia. Do not mention this at present to the Peruvian Government but endeavor to have it send instructions authorizing the substitute statement of the Peruvian Ambassador. [End paraphrase.]

HUGHES

721.2315/179 : Telegram

The Ambassador in Brazil (Morgan) to the Secretary of State

RIO DE JANEIRO, March 3, 1925—noon.

[Received March 3—11 a. m.]

21. Your telegram number 17, March 2, 2 p. m. was communicated to the Minister for Foreign Affairs this morning. Foreign Office on reading telegram considers Gracie's instructions already adequate.

MORGAN

721.2315/180 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, March 3, 1925—noon.

[Received 12:48 p. m.]

12. Your last cable. Peruvian Government promises to forward immediately following modifications procès-verbal as substitute for Dr. Velarde's proposed statement:

"Dr. Velarde then stated that he was also authorized by his Government to accept the friendly suggestion which the Secretary of State had just made in the sense that his Government would immediately advise the Peruvian Congress thereof—repeating at the same time its recommendation that it approve the boundary treaty with Colombia.["]

Instructions in other respects to remain as previously given.

POINDEXTER

721.2315/182 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, March 3, 1925—2 p. m.

[Received 4:08 p. m.]

13. Supplementing my 12,¹³ yesterday I addressed a note to President Leguía asking him if he had forwarded the instructions to his Ambassador agreed to in my conversation with him March 1st, as reported in my cable No. 10.¹⁴ In response I at once received a request to call from the Minister for Foreign Affairs. Complying at once I was astonished when he told me that the President, after consulting with him, was unable to give the instructions referred to. He stated that when the President agreed, he, the President, had overlooked the fact that the second suggestion of the Secretary of

¹³ *Supra*.¹⁴ *Ante*, p. 454.

State had been reinserted in the procès-verbal. (See my 9, section 2.)¹⁵ You will remember that the first proposal of the President and Minister for Foreign Affairs was to omit this in their instruction and that it was reinserted at my instance. I expressed surprise at this statement of the Minister informing him that I had already advised you that the President would cable Dr. Velarde the afore-said instructions and then adverted to many inconsistencies in the various positions taken by the Peruvian Government.

The Minister for Foreign Affairs immediately after my conversation with him visited the President and informed him thereof. As a result the Minister for Foreign Affairs again requested me to call and I have just returned from the Foreign Office. He expressed great embarrassment, going at length into the contention of Brazil, and attempted to show that the situation [in] regard to the subject matter of the treaty had changed since it was signed, all of which I will report at length by next pouch. However, he concluded by promising to send at once to Ambassador Velarde the instructions as described in my previous telegram 12, of which I have from him a written copy.

POINDEXTER

721.2315/180 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

WASHINGTON, March 3, 1925—6 p. m.

10. Your 12, March 3, noon. Señor Velarde has received instructions as set forth in your telegram. The words "in the sense that" are objected to on behalf of Colombia as conducive to misunderstanding and cannot be accepted without specific instructions. There is thus serious risk of breakdown of negotiations at critical moment without compensating results to Peru. There will be an opportunity to sign through tomorrow afternoon and it is earnestly hoped Peruvian Government will agree to delete the words objected to. The statement in the third paragraph of your undated telegram No. 10,¹⁶ would be acceptable as would any of the following three alternatives:

1. "Doctor Velarde then stated that he also was authorized by his Government to express its acceptance of the friendly suggestion which the Secretary of State had just made and that as a consequence his Government would immediately advise the Peruvian Congress thereof, repeating at the same time its recommendation that it approve the boundary treaty with Colombia."

2. Same as No. 1 through words "had just made" and then the following words "and that his Government would immediately advise

¹⁵ *Ante*, p. 451.

¹⁶ Telegram No. 10 dated Mar. 1, 10 p. m., p. 454.

the Peruvian Congress thereof, repeating at the same time its recommendation that it approve the boundary treaty with Colombia."

3. Same as No. 1 through words "had just made" then following "and that his Government would repeat to the Peruvian Congress its recommendation that it approve the boundary treaty with Colombia."

Department unable to understand this multitude of changes. If the Peruvian Government does not desire to enter into the Procès Verbal Department would prefer to have it say so frankly. If it does desire to do so Department hopes it will send instructions this evening if possible to the Peruvian Ambassador to accept one of the formulæ above proposed.

HUGHES

721.2315/188 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

[Paraphrase]

LIMA, March 4, 1925—2 a. m.

[Received 7:01 a. m.]

15. Your No. 10, March 3, 6 p. m. I greatly fear that the frank challenge to the Peruvian Government as suggested in the last paragraph of your telegram might lead to rejection of the entire procès-verbal or to fatal delay. I have had the greatest difficulty in arriving at the present status, and I am satisfied that negotiations for still further changes would be seized upon by Salomón as an opportunity to delay further as he is unfriendly to the proposition. I have just had a lengthy consultation with the Colombian Minister who agrees with me that to reopen negotiations with the Peruvian Government would be hazardous; he is of the opinion that all parties should seize the opportunity to sign the procès-verbal immediately in accordance with the instructions last sent Dr. Velarde, and that the words "in the sense that" cannot be construed so as to have any material effect upon the agreement. About 1 p. m. he telegraphed this opinion to the President of Colombia.

It is obvious that Salomón has been and is sparring for time.

POINDEXTER

721.2315/186

The Secretary of State to the Peruvian Ambassador (Velarde)

WASHINGTON, March 4, 1925.

EXCELLENCY: I have the honor to enclose herewith for your Government original copies in English, Spanish and Portuguese of the

Procès Verbal signed in my office today by you, the Colombian Minister, the Brazilian Chargé d'Affaires ad interim and me.

With reference to the third suggestion made by me that Brazil and Colombia sign a convention by which the boundary between those countries would be agreed to on the Apaporis-Tabatinga line, Brazil agreeing to establish in perpetuity in favor of Colombia freedom of navigation on the Amazon and other rivers common to both countries, I have the honor to inform you that it is of course understood that the signing of this convention will follow the ratification by Colombia and Peru of the boundary treaty of March 24, 1922, between them.

In this connection I have the honor to inform you that the Colombian Minister has renewed to me the statement made in today's meeting that his Government will conclude the above treaty with Brazil immediately after the ratification by Peru of the Colombian-Peruvian boundary treaty.

A similar note is being sent by me to the Colombian Minister and to the Brazilian Chargé d'Affaires.¹⁷

Accept [etc.]

CHARLES E. HUGHES

[Enclosure]

Procès-Verbal of a Meeting Between the Secretary of State, the Peruvian Ambassador (Velarde), the Colombian Minister (Olaya), and the Brazilian Chargé (Gracie), March 4, 1925

Doctor Hernán Velarde, Doctor Enrique Olaya, and Mr. Samuel de Souza Leão Gracie, Ambassador Extraordinary and Plenipotentiary of Peru, Envoy Extraordinary and Minister Plenipotentiary of Colombia, and Chargé d'Affaires ad interim of Brazil, respectively, having on the invitation of the Secretary of State of the United States of America, met with him in his office at the Department of State, Washington, at five o'clock on March 4, 1925.

Mr. Hughes stated that he had invited Messrs. Velarde, Olaya and Gracie to his office to consider the boundary treaty between Colombia and Peru signed in Lima March 24, 1922, in respect to which observations of a friendly nature had been made to the Peruvian Government by the Brazilian Government. Mr. Hughes stated that the three Governments concerned had requested his good offices in the settlement of this question and, after carefully considering the matter, he desired to suggest as a solution of the difficulty the following:

First. The withdrawal by the Government of Brazil of its observations regarding the boundary treaty between Colombia and Peru;

Second. The ratification by Colombia and Peru of the above mentioned boundary treaty;

¹⁷ Notes not printed.

Third. The signing of a convention between Brazil and Colombia by which the boundary between those countries would be agreed to on the Apaporis-Tabatinga line, Brazil agreeing to establish in perpetuity in favor of Colombia freedom of navigation on the Amazon and other rivers common to both countries.

Mr. Gracie then stated that he was authorized by his Government to accept the friendly suggestion which the Secretary of State had just made and that in consequence he was instructed by his Government to inform the Peruvian Ambassador that Brazil withdraws its observations regarding the Colombian-Peruvian treaty above mentioned on the understanding that Peru will make as a condition in settling its boundary question with Colombia, the recognition of the Apaporis-Tabatinga line as described by the Treaty of 1851 and in consequence Brazilian dominion over the territory to the east of that line. Mr. Gracie added that should Colombia agree to recognize the above mentioned Apaporis-Tabatinga line Brazil was ready to agree in the same convention to establish in perpetuity in favor of Colombia freedom of navigation on the River Amazon and other rivers common to both countries.

Doctor Olaya then stated that he had instructions from his Government to accept the friendly suggestion just made by the Secretary of State. Doctor Olaya added that he was authorized to state that on the condition that the treaty of March 24, 1922, between Colombia and Peru, should be ratified by both Governments the Government of Colombia would agree to conclude immediately thereafter a treaty with Brazil recognizing as the frontier between the two countries the village of Tabatinga, and from that place to the north the direct line until it meets the River Yapurá at its junction with the Apaporis, and in consequence Brazilian dominion over the territory to the east of that line, it being understood that Brazil in the same treaty will agree to establish in perpetuity in favor of Colombia freedom of navigation on the Amazon and other rivers common to both countries.

Doctor Velarde then stated that he also was authorized by his Government to express its acceptance of the friendly suggestion which the Secretary of State had just made in the sense that his Government would immediately advise the Peruvian Congress thereof, repeating at the same time its recommendation that it approve the boundary treaty with Colombia.

The Ambassador of Peru, the Minister of Colombia, and the Chargé d'Affaires ad interim of Brazil then stated that they desired to express the gratitude of their respective Governments for the good offices of the Secretary of State exerted in such an amicable manner in the interest of harmony between the three interested Republics in

order to adjust the questions considered in the meeting recorded by this Procès Verbal.

This Procès Verbal of the meeting, drawn up in quadruplicate in English, Spanish and Portuguese, was signed by the Secretary of State of the United States of America, the Ambassador of Peru, the Minister of Colombia, and the Chargé d'Affaires ad interim of Brazil. It is understood that in case of doubt the English text will be binding. One copy in each language will be retained for the files of the Department of State by the Secretary of State, who will send of the remaining three copies, one each, in each language, to the Ambassador of Peru, the Minister of Colombia, and the Chargé d'Affaires ad interim of Brazil, for their respective Governments.

CHARLES E. HUGHES

HERNÁN VELARDE

ENRIQUE OLAYA

SAMUEL DE SOUZA LEÃO GRACIE

721.2315/183a : Telegram

*The Secretary of State to the Ambassador in Peru (Poindexter)*¹⁸

WASHINGTON, March 4, 1925—8 p. m.

11. Procès Verbal signed today. Much appreciate your able co-operation.

HUGHES

721.2315/192

The Peruvian Ambassador (Velarde) to the Secretary of State

[Translation]

WASHINGTON, March 10, 1925.

EXCELLENCY: I have received the note which Your Excellency's honorable predecessor was pleased to send me on the 4th of this month with authenticated copies in Spanish, English and Portuguese of the procès-verbal, signed in the Department of State by the above mentioned predecessor of Your Excellency, by the Minister of Colombia, the Chargé d'Affaires of Brazil and the undersigned; and it behooves me to express thanks for that paper as I now have the pleasure to do.

In the above mentioned note, Mr. Hughes says that with reference to his third suggestion in the sense that Brazil and Colombia should sign a convention under which the two countries would recognize

¹⁸ The same to the Ambassador in Brazil; first sentence, only, to the Minister in Colombia (file No. 721.2315/183 b, c).

the Apaporis-Tabatinga line and Brazil agree to establish forever in favor of Colombia free navigation of the Amazon and other common rivers, he regards it as understood that the signing of that convention would follow the ratification by Colombia and Peru of the boundary treaty signed by the two countries on March 24, 1922.

The Honorable Mr. Hughes adds that the Minister of Colombia renewed to him the declaration he had made in the course of the conference held on the same day of the signing of the procès-verbal in the sense that his Government would conclude with Brazil the convention above mentioned immediately upon the ratification by Peru of the Peruvian-Colombian boundary treaty.

I greatly regret my inability to concur with the understanding of the Honorable Mr. Hughes or with the change which appears in the declarations of the Minister of Colombia, as both points were subjects for my remarks in the course of the negotiation, and the precise acceptance of those and other remarks made by me having been made a previous condition for the signing of the procès-verbal on the part of Peru.

In the draft of the procès-verbal which was presented to me by Mr. White, Chief of the Latin-American Division in charge of the negotiations in behalf of the Department of State, there was seen indeed at the beginning of the third suggestion of the Honorable Mr. Hughes this sentence: "The signing immediately after ratification of the said convention, etc.", but that sentence was noticed by me and deleted by Mr. White and this third suggestion was finally worded in the original language as follows: "The signing between Brazil and Colombia of a convention etc." This, therefore, was a point that had been disposed of and the procès-verbal stood worded and signed thus.

Neither can I agree for identically the same reasons to the change in the terms of the procès-verbal, referring to the declarations of the Minister of Colombia, which the Honorable Mr. Hughes sends me restoring, without change, the form in which they appeared in the original draft. In that draft it was said in that part to which I am referring, that "if the Treaty between Colombia and Peru of March 24, 1922, were ratified *by the Government of Peru*, the Government of Colombia etc."

On account of my remarks and on account of their being accepted by Mr. White who was surely authorized thereto by the Minister of Colombia, since it is so recorded in the procès-verbal, as signed, the above copied sentence was changed as follows: "If the Treaty between Colombia and Peru of March 24, 1922, were ratified *by both Governments*, the Government of Colombia, etc."

It is with genuine regret that I find myself constrained to offer the foregoing remarks.

I take note that a communication identical with that sent to me has been received by the Minister of Colombia and the Chargé d'Affaires of Brazil.

I have [etc.]

HERNÁN VELARDE

721.2815/192

The Secretary of State to the Peruvian Ambassador (Velarde)

WASHINGTON, March 24, 1925.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of March 10, 1925, acknowledging the receipt of my predecessor's note of March 4, transmitting to you original copies in English, Spanish, and Portuguese of a Procès Verbal signed at the Department of State on that day by Your Excellency, by the Minister of Colombia, by the Chargé d'Affaires of Brazil, and by my predecessor.

You state that you regret that you cannot concur with the understanding expressed by Mr. Secretary Hughes that the signing of the convention between Brazil and Colombia would follow the ratification by Colombia and Peru of the boundary treaty signed by the two countries on March 24, 1922, nor with what you consider a change in the declaration of the Minister of Colombia that his Government will conclude the above mentioned treaty with Brazil immediately after the ratification by Peru of the Colombian-Peruvian boundary treaty.

The original proposal made by my predecessor in the discharge of the good offices requested by the three Governments concerned in the settlement of this question contemplated three steps:

1. The withdrawal by the Government of Brazil of its observations regarding the boundary treaty between Colombia and Peru;

2. The ratification by Colombia and Peru of the above mentioned boundary treaty;

3. The signing immediately after the ratification of that treaty, of a convention between Brazil and Colombia by which the boundary between those countries would be agreed to on the Apaporis-Tabatinga line, Brazil agreeing to establish in perpetuity in favor of Colombia freedom of navigation on the Amazon and other rivers common to both countries.

On the basis that the third step in the proposal of the Secretary of State was a matter exclusively between Colombia and Brazil your Government requested several modifications in the Procès Verbal as originally drafted, bearing on that question. Changes were requested in the statement to be made by Your Excellency in the meeting and your Government also requested that the words "immediately after the ratification of the above treaty", which referred to the boundary treaty between Colombia and Peru, should

be omitted from the third part of the proposal by the Secretary of State thus leaving that part to deal with matters exclusively between Brazil and Colombia. This was agreed to and the Procès Verbal was signed in that sense. However, in order that there might be no misapprehension on the part of those concerned that the various steps in the proposal of the Secretary of State were to be carried out in the sequence mentioned, my predecessor made this clear by stating in his covering note that the third proposed action would be taken after the carrying out of the second step. It was likewise the understanding that Mr. Secretary Hughes' second suggestion would not be carried out until the first suggestion had been complied with but it was not necessary to mention this in the covering letter as his first suggestion was complied with in the Procès Verbal itself wherein the Brazilian Chargé d'Affaires informed Your Excellency of the withdrawal by Brazil of its observations regarding the Colombian-Peruvian treaty.

There is thus no change whatsoever in the Procès Verbal as signed. The Procès Verbal is itself clear and the covering note merely sets forth what is obvious in the Procès Verbal that the settlement proposed by the Secretary of State is to be accomplished in three steps in the order mentioned.

With reference to Your Excellency's remarks regarding Mr. Secretary Hughes' reference to the renewal by the Colombian Minister of his statement made in the meeting on March 4, that his Government will conclude the treaty with Brazil provided for in the third portion of the Secretary of State's proposal, immediately after the ratification by Peru of the Colombian-Peruvian boundary treaty, I have the honor to reply as follows:

In the Procès Verbal as originally drawn up it was provided as Your Excellency remembers that the Colombian Minister would say that he was authorized by his Government to state that should the treaty of March 24, 1922, between Colombia and Peru be ratified by the Government of Peru the Government of Colombia would conclude immediately thereafter the treaty with Brazil provided for in the third step of the proposal of the Secretary of State. Although this step of the proposal provided for action only by Colombia and Brazil, those Governments agreed, at the request of your Government, to change the words "by the Government of Peru" for the words "by both Governments".

It is manifest that this change, while it could benefit none of the three Governments concerned, might conceivably cause a delay to the prejudice of Brazil by requiring one extra step, namely the ratification by Colombia of the treaty of March 24, 1922, between Colombia and Peru, before the third step in the Secretary of State's proposal, which relates only to action by Brazil and Colombia, would

be carried out. The Colombian Minister therefore spontaneously addressed a note to the Secretary of State on March 4, before the signing of the Procès Verbal, which made it clear for the benefit of the Brazilian Government, the one principally concerned in this matter, that the Colombian Government would conclude with Brazil the convention stipulated in the third step of the Secretary of State's proposal immediately upon the ratification by Peru of the boundary treaty between Peru and Colombia signed March 24, 1922. In other words this was an assurance from Colombia to Brazil that although under the changed wording of the Procès Verbal, which was made to meet the desire of your Government, Colombia need not conclude the convention with Brazil until the boundary treaty between Colombia and Peru had been ratified by both those Governments, it would nevertheless do so upon the ratification of that treaty by Peru thus obviating the delay which might occur should the Colombian Congress not then be in session. This was a friendly act on the part of the Colombian Government which, I feel sure you will concur with me, not only does not change the Procès Verbal in any way, especially in so far as Peruvian interests are concerned, but is in the nature of an additional act of comity and friendship beyond the strict requirements of the Procès Verbal.

Your Excellency will thus see that there are no changes in the Procès Verbal which I am glad to feel forms an equitable basis for the settlement of the questions pending between the three countries concerned in the matter of boundaries. As said before the suggestions of my predecessor consist in three steps. The first one has now been complied with and I feel confident that Your Excellency's Government and the Government of Colombia will very shortly comply with the second and that the Brazilian and Colombian Governments will in due course comply with the third thus definitely disposing of the matter.

Accept [etc.]

FRANK B. KELLOGG

721.2315/229a : Telegram

The Acting Secretary of State to the Ambassador in Brazil (Morgan)

WASHINGTON, July 3, 1925—noon.

47. The Brazilian Ambassador called on the Secretary some time ago to discuss the carrying out of the Procès Verbal signed March 4. He called again on July 2. The Secretary told him that the Colombian Minister had recently informed him that the Colombian Congress would be in session on July 20, and that he is reasonably sure that it will then approve the Boundary Treaty of 1922 with Peru. The Secretary told the Ambassador that the situation does not seem favorable for any representations in Lima by the American Embassy;

that the Secretary is of course most interested in the final carrying out of the Procès Verbal and that should the Brazilian Government desire to discuss with the Peruvian Government the early ratification of the Colombian-Peruvian Boundary Treaty he would have no objections thereto. It was pointed out to the Ambassador that the ratification of the Treaty by Peru had been held up on account of the Brazilian *démarche* and Brazil would therefore appear to be in the favorable position, should it so desire, to reopen the matter with the Peruvian Government now that the objections of Brazil had been fully met.

The Secretary informed the Ambassador that he would advise you of his conversation with him in order that you might discuss the matter with the Minister for Foreign Affairs. The Ambassador is also cabling.

GREW

721.2315/243a : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

WASHINGTON, October 30, 1925—6 p. m.

62. Department advised by Colombian Minister that Colombian Government has ratified Colombian-Peruvian Boundary Treaty of 1922, thus complying with its obligations under Section 2 of the Procès Verbal of March 4, last.¹⁹

In the course of conversation today on other matters I informed the Peruvian Ambassador of the above intimating that information that the Peruvian Congress had done likewise would be received with pleasure. You may in your discretion say to President Leguía that the definite termination of this matter would cause gratification to this Government.

KELLOGG

721.2315/247

Memorandum by the Secretary of State of a Conversation With the Colombian Minister (Olaya), October 31, 1925

The Colombian Minister called and notified me of the ratification of the Colombian-Peruvian Boundary Treaty and to thank the United States for its generous and helpful attitude in relation to this matter and all South American matters. He left a formal note, in Spanish,²⁰ which should be translated and answered.

¹⁹ This paragraph was telegraphed to Brazil, Oct. 30, 6 p. m., as Department's telegram No. 57 (file No. 721.2315/243b).

²⁰ Not printed.

I told him that I had suggested to the Peruvian Ambassador yesterday that he urge his Government to have the Treaty ratified. I told him confidentially that the Special Representative of the Ecuadorian Government (Elizalde), now in Washington, called on me the other day and wanted a copy of the Peruvian-Colombian Boundary Treaty and I told him that I could not give it to him because it would not be published until it was ratified; that I thought there was nothing secret about it. He seemed to understand the terms and protested that it was contrary to Ecuadorian interests because it gave Peru the territory to the north of Ecuador and would make it more difficult for Ecuador to agree with Peru as to the boundary between Ecuador and Peru. I told him that it seemed to me that the question of whether Peru conceded territory to Colombia or Colombia to Peru was a question purely between those countries; that I could not see how it could legally affect Ecuadorian interests; that the territory belonged to those countries and they had a right to settle their disputes. He said that Ecuador had conceded certain territory to Colombia but did not expect Colombia to give it to Peru. I told him I could not see that this would make any difference. If the territory belonged to either one of those countries, they were at liberty to agree on their boundaries as they saw fit. In any event, I told him the United States could not interpose or offer its good offices to settle any dispute unless all the countries involved should request it and that it was not a matter in which we had a right to interfere. I told him he could convey this information in a confidential manner to his Government.

721.2315/280

The Ambassador in Peru (Poindexter) to the Secretary of State

No. 477

LIMA, November 30, 1925.

[Received December 16.]

SIR:

. . . I called at the Palace on November 23d, according to appointment, and expressed to President Leguía the gratification of the United States Government at the favorable action which had been taken by the Congress of Colombia in the ratification of the Boundary Treaty and suggested to the President that it would likewise be a source of gratification to my Government if like favorable action should be taken by the Peruvian Congress, especially in view of the active share which the former Secretary of State had, at the request of the three interested governments, in the formulation and agreement to the Procès Verbal which had been celebrated by Brazil, Co-

lombia, and Perú on the 4th of March, 1925, and on account of the deep interest which the United States, as a friendly American power, feels in the solution of questions which give rise to controversies and disagreements between its neighboring American Republics. President Leguía informed me that he had just had a conversation with Señor Mariategui, the President of the Chamber of Deputies, and Señor Piedra, the President of the Senate, on this subject, and that he was advised by them that it would be difficult, if not impossible, to secure the favorable action of the Peruvian Congress on the treaty until the Tacna-Arica Plebiscite had been disposed of. However, the President stated to me that in view of the representation which I had just made and of the friendly and neutral interest of the American Government in the matter, he would see the presiding officer of each House of Congress again, and that he would bring whatever pressure to bear he was able to, looking towards favorable action by Congress upon the treaty. He stated, however, that he was far from convinced that it was feasible to secure such favorable action at this time. I expressed to the President my appreciation of his offer to bring the matter forward and took the liberty of suggesting to him that in my personal opinion the ratification of the treaty by Perú, thus settling in one act long-standing subjects of controversy with two of her neighboring nations,—namely; Brazil and Colombia,—would create a very widespread favorable impression throughout America as an indication of the substantial progress which Perú would be making in the adjustment of the questions of dispute which she had pending with the neighboring republics. President Leguía thanked me for my frank expression and assured me that he was heartily in favor of the ratification of the treaty and would proceed to secure it at the earliest practicable moment.

Thereafter Señor Focion Mariategui, who is also the leader of the Government party as well as the Presiding Officer of the Chamber of Deputies, called at the Embassy by appointment on November 25th, and advised me that the President had consulted with him subsequent to my interview with the President on the subject referred to. Señor Mariategui, however, expressed the opinion that while the sentiment of Congress was growing more favorable to the Colombian Boundary Treaty, yet if it were presented for action at this time, a bitter debate would be precipitated and that he had grave doubts of the success of such a motion. He stated that he believed that in view of the increasing strength of the Leguía Government and of the favorable developments in the Tacna-Arica plebiscite which had been sponsored by President Leguía, sentiment would continue to grow still more favorable with reference to the treaty and

that later on when the Plebiscite had made further progress or had been disposed of, favorable action could be obtained.

I have [etc.]

MILES POINDEXTER

Costa Rica and Panama

718.1915/698a : Telegram

The Secretary of State to the Minister in Panama (South)

WASHINGTON, *January 23, 1925—4 p. m.*

10. You will please say to the Panaman Government that this Government has been approached by the Costa Rican Government with a view to the delimitation of the boundary between Panama and Costa Rica. This matter has been dragging on for a number of years now without any advance having been made in its final determination. The Costa Rican Government is naturally anxious to have this matter settled in order to avoid disagreeable and regrettable frontier incidents. Now that there are new administrations in both Panama and Costa Rica since the regrettable occurrence of 1921,²¹ it should be possible for this matter to be disposed of without further friction. This Government would therefore be happy to have Panama appoint its engineer to delimit, in conjunction with those appointed by the arbitrator and by the Government of Costa Rica, the boundary as set forth in the arbitral award.

The matter has been discussed informally with Señor Alfaro²² who harps back to the old Panaman contention that the Chief Justice exceeded his authority and that his award is null and void. This Government cannot reopen that matter it having been carefully considered and the Department's views thereon were very clearly stated in its notes to the Panaman Government in 1921. In this connection see especially the Department's 28 and 38 of March 15, 8 p. m., and April 27, 5 p. m., 1921, respectively.²³ Cable results of your representations.

HUGHES

²¹ See *Foreign Relations*, 1921, vol. I, pp. 175 ff.

²² Ricardo J. Alfaro, Panaman Minister in the United States.

²³ *Foreign Relations*, 1921, vol. I, pp. 184 and 207.

718.1915/703

The Minister in Panama (South) to the Secretary of State

[Extract]

No. 628

PANAMA, February 2, 1925.

[Received February 13.]

SIR: Referring to the Department's telegram No. 10 of January 23, 4 p. m., and confirming my telegram No. 13 of January 30, 11 a. m.,²⁴ I have the honor to transmit herewith a copy of a note dated January 29, 1925 from the Minister for Foreign Affairs, in which is set forth the attitude of the Panaman Government with regard to the settlement of the Costa Rica boundary question. A translation of the above note is also inclosed.

This morning I received a note dated January 30, 1925, a copy and translation of which are enclosed, informing me that the Government of Panama considers it essential that some agreement along the lines specified in the communication of January 29th be reached, before Panama can name its engineer to proceed with the demarcation of the boundary line.

I have [etc.]

J. G. SOUTH

[Enclosure 1—Translation²⁵]*The Panaman Minister for Foreign Affairs (Alfaro) to the American Minister (South)*

S. P. No. 249

PANAMA, January 29, 1925.

MR. MINISTER: I have received Your Excellency's kind note No. 310 of the 20th [*sic*] instant in which you inform me, pursuant to instructions from your Government, that the Government of Costa Rica has approached the Department of State with a view to the demarcation of the boundary between Panama and Costa Rica. Your Excellency states that this matter has been pending for many years without any advance having been made in its final determination, and that the Government of Costa Rica is naturally anxious to settle it in order to avoid disagreeable and regrettable frontier incidents. Your Excellency suggests that now that there are new administrations in both Panama and Costa Rica, since the painful incidents of 1921, it should be possible to dispose of this matter without further friction.

Finally Your Excellency states that your Government would be happy to have Panama appoint its engineer to delimit, in conjunction with those named by the arbitrator and by the Government of Costa Rica, the frontier as set forth in the arbitral award.

²⁴ Latter not printed.²⁵ File translation revised.

In reply I have the honor to inform Your Excellency that Panama also earnestly desires to end forever the boundary question with Costa Rica; but as the Republic of Panama in 1921 was the victim of an unjustifiable aggression which at that time obliged it to make heavy expenditures, my Government feels that the settlement of the pecuniary claim should be considered a question precedent to the demarcation of the frontier.

Once this question has been settled the Government of Panama would be disposed to proceed with the delimitation, in accordance with the line fixed in the arbitral award,²⁸ from the mouth of the Sixaola River to the point near the ninth degree of north latitude beyond Cerro Pando, and would accept the rest of the delimitation as far as the Pacific coast, it being always understood that in making this delimitation of the territory a just line will be established which protects the interests of the Panamans who live or hold properties in the region in controversy, permitting, as far as may be practicable, the lands of the said inhabitants or owners to remain within the frontiers of Panama. This could be done by the mere signing of a protocol in which would be incorporated the instructions which could be carried out by the Boundary Commissioners. The proposed solution does not involve any new feature inasmuch as the President of France, in explaining his decision at the request of Costa Rica, declared that the lines of the award were general, and that they remained subject to the changes which the Boundary Commissioners might consider necessary to make when setting the landmarks, taking into consideration the best interests of the two countries.

To carry out the proposed solutions along the lines above described, Panama is disposed to enter into direct negotiations with Costa Rica as soon as possible. My Government wishes to have it understood, however, that in making these proposals it is animated by a spirit of pure conciliation, and that this attitude does not imply in any manner that Panama accepts the validity of the arbitral award, to which, it is understood, the note of Your Excellency refers.

I avail myself [etc.]

H. J. ALFARO

[Enclosure 2—Translation]

The Panaman Minister for Foreign Affairs (Alfaro) to the American Minister (South)

S. P. No. 262

PANAMA, January 30, 1925.

MR. MINISTER: With reference to our interview of this morning permit me to inform Your Excellency that the Government of Panama considers that in order to proceed with the nomination of the

²⁸ For the text of the Loubet award, see *Foreign Relations*, 1910, p. 788.

Panaman engineer who should participate in the demarcation of the boundary line with Costa Rica, it is essential that a previous agreement be reached along the lines indicated in the note which I had the honor to address to Your Excellency dated the 29th instant, numbered S. P. 249.

I avail myself [etc.]

H. J. ALFARO

718.1915/701: Telegram

The Secretary of State to the Minister in Panama (South)

WASHINGTON, February 6, 1925—3 p. m.

17. Your 15, February 2, 11 a. m.²⁷ You will please address the following note to the Minister for Foreign Affairs reading a copy thereof to President Chiari:

"Under instructions from my Government I have the honor to advise you that in view of the obligation assumed by the United States Government in Article I of the Treaty of 1903,²⁸ the question of Panama's boundaries is of great concern to it. Panama's difficulties with its neighbors have in very large measure arisen through disputed boundaries and have caused Panama on several occasions in the past to call upon the United States Government for assistance under the terms of the treaty stipulation referred to.

The guarantee by my Government of the independence of Panama has made it necessary for it to examine carefully into the question of Panama's boundaries in order to satisfy itself regarding the extent of the territory covered by that guarantee. The Government of the United States was highly gratified at the satisfactory solution of the boundary question between Panama and Colombia.²⁹ It was also gratified that the boundary with Costa Rica was established by Article I of the Porras-Anderson Treaty of 1910³⁰ and by the White Award.³¹ It is a source of profound regret to it, however, that that Award has not yet been executed by Panama. While this noncompliance with the Award persists the possibility of misunderstanding and even of a re-occurrence of the regrettable incidents of 1921 between Panama and Costa Rica is ever likely. In view of the treaty provisions above cited such incidents would inevitably involve the United States Government. Therefore, in the interest of peace, friendly relations between Panama and its neighbors, and orderly procedure the United States Government would learn with pleasure of the definite settlement of Panama's only remaining boundary controversy.

The Costa Rican Government has informed my Government of its earnest desire to have removed any possibility of the friction

²⁷ Not printed; it transmitted the substance of the note of January 30 from the Panaman Minister of Foreign Affairs, *supra*.

²⁸ *Foreign Relations*, 1904, p. 543.

²⁹ See *ibid.*, 1924, vol. I, pp. 287 ff.

³⁰ *Ibid.*, 1910, p. 820.

³¹ *Ibid.*, 1914, p. 1000.

that is apt to occur through the lack of precise knowledge, until it is definitely surveyed and marked off, of the actual boundary between the two countries. To this end it has asked the United States Government to cooperate with it in having the line demarcated. This matter has been pending so long to the detriment of the development of the regions on both sides of the line, that the United States Government feels that the desire of the Costa Rican Government to have this matter now definitely determined is a reasonable one; and, being confident that the White Award and the Treaty of 1910 definitely establish the boundary my Government instructed me to invite Your Excellency's Government to appoint its engineer to demarcate the line. Your Excellency's Government declined to appoint its engineer and stated that it considered an arrangement with Costa Rica along the lines specified in your note of January 29, last, essential before Panama can appoint its engineer. You did inform me, however, that your Government is ready to enter immediately into direct negotiations with the Government of Costa Rica.

In view of the position taken by Your Excellency's Government I am instructed to make clear to you the position of the American Government in the premises:

The Government of the United States feels that the boundary line should now be definitely established and that the Treaty of 1910 and the White Award are valid and binding on both Panama and Costa Rica. While my Government cannot depart from this position it is willing, as a further manifestation of its friendship and good-will toward Panama, to await for a reasonable time the outcome of such direct negotiations as Panama may undertake with the Government of Costa Rica. Any agreement satisfactory to both Panama and Costa Rica will of course be acceptable to my Government but in the absence of any such agreement my Government will have no other alternative than to afford facilities for the engineers appointed by the Chief Justice of the Supreme Court of the United States and by the Government of Costa Rica in demarcating the boundary line, should Panama refuse to cooperate therein. In the absence of a prior arrangement between Panama and Costa Rica my Government will proceed to this in January, 1926.

With reference to the position adumbrated in Your Excellency's note of the 29th ultimo, I am instructed to say that my Government can find no merit in the Panaman claim for indemnity against Costa Rica for the action taken by the latter in 1921. Without expressing any opinion regarding this action it should nevertheless be pointed out that Panama had then been in occupation for eleven years of territory which it clearly recognized in the Porras-Anderson Treaty of 1910 as belonging to Costa Rica and Costa Rica's action was doubtless inspired by the desire to enter into possession of what had been recognized as belonging to it but was being withheld.

In order to further the negotiations my Government will be glad to express to the Costa Rican Government the hope that in order to bring about a settlement of this question and to pave the way for the reestablishment of friendly relations between the two countries it agree that upon marking this boundary the line should be so drawn as to give fair protection to the interests of the Panamans

living or holding property within the district under discussion so far as this can be done consistently with the Award. Furthermore no mention will be made at this time to the Costa Rican Government of the readiness of the American Government to proceed in January, 1926, with the demarcation of the boundary line should no agreement have been reached in the meantime."

HUGHES

718.1915/711: Telegram

The Minister in Panama (South) to the Secretary of State

[Paraphrase]

PANAMA, April 9, 1925—11 a. m.

[Received 4:18 p. m.]

46. Department's telegram No. 17 dated February 6, 3 p. m. Just received note from Foreign Minister which states that Panama is only willing to enter into direct negotiations with Costa Rica to put into effect the solution which he proposed in his note dated January 29 (my despatch No. 628 dated February 2).

If a settlement of the question of indemnity fails through direct negotiations, Panama will only agree to submit this question to the International Court. Repeated to the American Legation in Costa Rica.⁸²

SOUTH

718.1915/726: Telegram

The Secretary of State to the Minister in Costa Rica (Davis)

WASHINGTON, September 22, 1925—4 p. m.

16. Your 28, September 18, 8 p. m.⁸³ You may informally use your good offices with the President in such manner as may seem most advisable to further the success of the negotiations impressing upon him that it is the fervent hope of this Government that an agreement may be reached through direct negotiations between Costa Rica and Panama which will settle the boundary controversy once for all and permit the demarcation of the frontier in the near future in a manner acceptable to both parties.

KELLOGG

⁸² In his despatch No. 754, June 25, 1925, the Minister in Panama reported that Señor Julio Fabrega had been appointed confidential agent for Panama and that he expected to depart for San José July 10 for the purpose of solving the boundary controversy (file No. 701.1918/3).

⁸³ Informing the Department that Señor Julio Fabrega, confidential agent of Panama, arrived at San José, September 18 (file No. 701.1918/6).

718.1915/735 : Telegram

*The Secretary of State to the Minister in Costa Rica (Davis)*⁸⁴

WASHINGTON, November 10, 1925—3 p. m.

21. The Panaman Minister Saturday and today discussed informally the boundary situation. It appears that Panama would accept as a compromise over the so-called Bravo line proposed by Panama in 1924 a line from the vicinity of Cañas Gordas to Meridian 83 and thence along the Meridian to the sea. This would be in lieu of any indemnity and would also comprise the return of Costa Rica's trophies of war.

It is understood that Fabrega will make this proposal to Costa Rica. What in your opinion would be the attitude of Costa Rica toward such a settlement? The Department realizes that Costa Rica is in a strong position in insisting upon the line of the Loubet Award or a modification that would make mutual concessions. The Department understands however that it is the view of the Panaman Government that the Loubet line being mentioned in the Panaman Constitution⁸⁵ as its boundary it could not constitutionally give up any territory on the Panaman side thereof. The Department would be glad to see an amicable settlement arrived at which would be satisfactory to both parties. The Department desires you to be very careful however not to give the impression that the Department supports the present Panaman proposal or that it considers the Panaman claim for indemnity a valid one.

The Department informed the Panaman Government last February that it could not support the Panaman claim for indemnity. On the other hand the Department does not desire to do anything which would interfere with the Panaman negotiations for a settlement of this matter and you should therefore be careful not to express any opinion on this point. Please keep the Department fully informed of developments and should the Panaman proposal not be acceptable to Costa Rica please advise what solution would in your opinion be acceptable to the Costa Rican Government.

In view of the position which the Department has taken regarding the validity of the White Award and the Loubet line it cannot formally suggest any other line but it would nevertheless be gratified should Costa Rica, in view of the fact that the Loubet line gives Costa Rica so much more than it was willing to accept under the Guardia-

⁸⁴ Repeated to Panama as the Department's telegram No. 70 of the same date.

⁸⁵ *Foreign Relations*, 1904, p. 562.

Pacheco Treaty,³⁶ grant Panama some consideration on the Pacific as an act of comity in the interest of peace and orderly procedure in Central America. The Department desires your personal views in the premises before authorizing you to discuss the matter discreetly with Costa Rican officials.

KELLOGG

718.1915/735: Telegram

*The Secretary of State to the Minister in Costa Rica (Davis)*³⁷

[Paraphrase]

WASHINGTON, November 11, 1925—3 p. m.

22. Department's telegram No. 21 dated November 10, 3 p. m.

The Department is now advised that the minimum amount acceptable to Panama is as follows: Costa Rica's war trophies to be returned; no indemnity to Panama; immediate survey of the boundary along the lines of the White award and the Loubet line to the vicinity of Cañas Gordas; thence the line would proceed to the 83d meridian and follow the 83d meridian to the point where it crosses the Loubet line in the vicinity of Cerro de Burica and thence follow the line of the Loubet award to the sea at Punta Burica. If, in your opinion, the line set forth in the Department's telegram No. 21 dated November 10, 3 p. m., would not be acceptable to Costa Rica, would this new line, in your opinion, be acceptable?

It is the understanding of the Department that Fabrega stated he intended to return to Panama on November 13 because of Costa Rica's uncompromising attitude. The Panaman Minister has suggested to his Government that he be instructed to remain pending a decision by the Department as to what support, if any, it can give to the last proposal of Panama. Cable Department as to your views. Until further instructed do not discuss question with Costa Rican officials.

KELLOGG

³⁶ An unperfected treaty between Costa Rica and Panama, signed Mar. 5, 1905, which would have carried out, with modifications, the Loubet award. It was replaced by the Anderson-Porras treaty of Mar. 17, 1910, which submitted the boundary question to the arbitration of the Chief Justice of the United States; his decision, the White award, was rendered on Sept. 12, 1914. See *Foreign Relations*, 1910, pp. 788-789.

³⁷ Repeated, except for the first paragraph, to Panama as the Department's telegram No. 71, Nov. 11, 4 p. m.

718.1915/735 Supp.: Telegram

*The Secretary of State to the Minister in Panama (South)*³⁸

[Paraphrase]

WASHINGTON, December 11, 1925—9 p. m.

82. Department's telegram number 70 dated November 10, 3 p. m.³⁹ and number 71 dated November 11, 4 p. m.⁴⁰

The Panaman Minister has advised the Department that Fabrega has recently conversed with Casorla⁴¹ and he feels very hopeful that Costa Rica might be willing to settle the boundary dispute by establishing the line as set forth in Department's telegram number 71 dated November 11, 4 p. m. The Panaman Government, therefore, has instructed him to make a formal proposal to President Jiménez to that effect.

From conversations with the Costa Rican Minister—who is uninformed regarding Fabrega's conversations with Casorla and other Costa Ricans on this point—it appears that this proposal would not be acceptable to Costa Rica, and if it should be accepted, Congress would probably not ratify it because it would not ratify any instrument giving up territory unless Costa Rica received other territory of approximately the same area in return. It would be most unfortunate if Costa Rica and Panama were to conclude another agreement which would not be ratified; this would leave the matter in a worse state than at present. Oreamuno⁴² has received instructions from Costa Rica that it would be willing to conclude a convention providing for the demarcation of the boundary in accordance with the awards and would suggest as Arbitrator the Chief Justice of the Supreme Court of the United States. According to Oreamuno this means a submission to arbitration of the claims of each side against the other. As stated by Alfaro, Panama would be willing to settle the boundary on the lines stipulated in the awards, and to arbitrate the amount of the indemnity due Panama from Costa Rica. In short, Costa Rica would have to agree in principle to an indemnity. Oreamuno says that this is out of the question, but that should he be informed that Panama would accept, he would be willing to employ all his influence—and he thinks he would succeed—to induce Costa Rica to accept a solution on the basis of the convention providing for the demarcation of the boundary according to the awards, the matter of indemnity to be submitted to arbitration, Costa Rica

³⁸ Repeated to Costa Rica as the Department's telegram No. 27 of the same date (file No. 718.1915/741).

³⁹ See footnote 34, p. 477.

⁴⁰ See footnote 37, p. 478.

⁴¹ Buenaventura Casorla, confidential agent of Costa Rica in Panama.

⁴² J. Rafael Oreamuno, Costa Rican Minister in the United States.

agreeing, so as to secure a settlement of the boundary. Should the Arbitrator find Panama to be at fault, Costa Rica would agree to waive, in advance, all claims for indemnity. Should Costa Rica be at fault, the Arbitrator would set the amount of the indemnity.

On its face this offer seems reasonable, conciliatory, and eminently fair. Discuss the matter orally and informally with the President and the Foreign Minister and determine if some such arrangement cannot be agreed upon as affording once for all a satisfactory settlement of this long-drawn-out dispute. Telegraph results.

KELLOGG

718.1915/747: Telegram

The Chargé in Panama (Munro) to the Secretary of State

[Paraphrase]

PANAMA, December 18, 1925—1 p. m.

[Received 7 p. m.]

121. Department's telegram number 82 dated December 11, 9 p. m. I discussed in detail with Foreign Minister Department's suggestion; but my promised interview with the President was put off from time to time for trivial reasons until it became evident that he was unwilling to discuss the matter at the present time. I then took up the question again with the Foreign Minister. He finally said that Panama was unwilling to accept the Department's suggestion at present because they still hope Costa Rica will accept Fabrega's proposition for straightening the boundary line. He let me see Fabrega's latest letter which was moderately optimistic although at the time of writing Fabrega had not presented his proposition.

Although I believe that Panama would finally accept any solution which involved a concession by Costa Rica sufficient to enable the Government of Panama to defend publicly its complete change of politics regarding the White award, nevertheless, it especially wants a territorial concession which would protect Panamans owning property on the Costa Rican side of the boundary line. I doubt if the Government of Panama would seriously consider any other solution until it is convinced that a territorial concession is impossible. I think it would be more profitable to take up the Department's suggestion when Costa Rica has definitely rejected Fabrega's proposition. Despatch will follow.⁴⁸

MUNRO

⁴⁸ Not printed.

718.1915/748 : Telegram

The Minister in Costa Rica (Davis) to the Secretary of State

SAN JOSÉ, December 18, 1925—4 p. m.

[Received December 19—12:41 a. m.]

54. My 50 and 53, Dec. 15, 9 a. m., and December 16, 11 a. m., respectively;⁴⁴ and Department's 22 and 27, November 11, 3 p. m., and December 11, 9 p. m.,⁴⁵ respectively.

[Paraphrase]

Panaman proposal outlined in Department's telegram number 22 was rejected by the leaders of Congress in confidential conference reported in my telegram number 50. President Jiménez has formally notified the Panaman representative that the proposal is unacceptable to Costa Rica. He has, however, submitted to the Panaman representative the following counterproposal.

1. Demarcation of boundary to be made according to the Loubet and White awards.
2. Costa Rica to accept land titles given by Panama to private persons on territory coming under the sovereignty of Costa Rica.
3. To be submitted to arbitration: The question as to whether Costa Rica owes Panama any indemnity for expenses incurred by the Panaman Government in 1921 during the conflict of Coto and whether Panama is indebted to Costa Rica on account of expenses incurred during that period for the reason expressed.
4. Panama to return to Costa Rica the arms, vessels, and flags seized by the forces of Panama upon signing the agreement.
5. Should the Arbitrator decide that Panama, not Costa Rica, owes the indemnity Costa Rica will renounce its demand for payment, except that stipulated in the above proposal.

Article 2 of counterproposal seemingly grants a concession to Panama because article 3 of the Anderson-Porras convention of 1910 simply provides for the recognition of titles granted prior to that date.

Casorla says it is his impression that the President will waive the demand for the return of the vessels mentioned in article 4 of the counterproposal, if necessary, but that the President thinks the return of the trophies is necessary in order to create a public sentiment in favor of his proposal.

The exception which is mentioned in the last clause of article 5 of the counterproposal refers to the items in article 4.

My information is that the Panaman representative has indicated that he is not willing to accept the President's proposal even if Panaman Government should send him instructions to do so.

⁴⁴ Neither printed.

⁴⁵ *Ante*, p. 478, and footnote 38, p. 479.

The above information should be considered confidential until the Costa Rican Minister at Washington informs the Department.

Repeated to the American Legation in Panama.

DAVIS

718.1915/754 : Telegram

The Chargé in Panama (Munro) to the Secretary of State

[Paraphrase]

PANAMA, December 27, 1925—10 a. m.

[Received 6 p. m.]

123. Yesterday Foreign Minister informed me that Fabrega had flatly rejected the Costa Rican proposal as was reported in telegram dated December 18 from the American Legation in Costa Rica, but that at the request of President Jiménez had made a counterproposal for a rectification of the boundary which would leave a small section southeast of Cañas Gordas to Panama. Fabrega stated that President Jiménez appeared willing to consider this proposal and took it under advisement. Fabrega asked to be permitted to return to Panama if the proposal were accepted or if the Government of Costa Rica would consent to postpone further negotiations until May when there would be a new Congress in Costa Rica more favorable to the Government. This was granted and today Fabrega returns to Costa Rica. From this fact the Foreign Minister infers that Costa Rica either has accepted Panama's last proposal or has consented to a delay.

The inclusion in the Costa Rican proposition of a stipulation for the return of the arms and flags appears especially objectionable to Panama since the Panaman Government would prefer to return them as a spontaneous gesture upon the resumption of relations. Panama also objects to the return of the vessels upon which much money has been spent, it is said, for repairs.

I believe that if these two stipulations were to be eliminated the Costa Rican proposal might ultimately be accepted, but not as long as Costa Rica appears willing to receive counterproposals which involve territorial concessions or to agree to a delay in the negotiations.

MUNRO

55' West, approximately 200 miles east southeast from Apia, Samoa, and to suggest that, if you approve, the case be brought to the attention of Congress with the recommendation that the sovereignty of the United States be extended over the island and that it be placed under the jurisdiction of the government established in American Samoa.

The following statement will indicate this Government's relation to the island for more than half a century:

It appears that in 1856, Captain Turnbull, a British subject, the alleged discoverer of Swain's Island, gave the island to Eli Jennings, who is reported to have always held himself out as an American citizen. Jennings married a native woman of Upolou, Samoa, and resided on the island until his death in 1878, at which time, under his will, the island became the property of his wife, Maria Jennings. The marriage certificate and will of Eli Jennings were recorded in the American Consulate at Apia. By the will of the widow, Maria Jennings, the island became, at her death in 1891, the property of her son, Eli Hutchinson Jennings.

In September, 1909, the Resident Commissioner in the Gilbert Islands visited Swain's Island and collected approximately eighty-five dollars in taxes from Eli Hutchinson Jennings for the British Government. In response to an inquiry from the American Consul at Apia, this Department on November 9, 1910, instructed the Consul that Mr. Jennings should file a diplomatic claim against the British Government for recovery of the amount paid as taxes, but added "From the facts before the Department, it is not clear whether Swain's Island was ever in fact discovered and occupied with the sanction of the United States and whether the United States has ever actually exercised jurisdiction over the island. In the absence of further evidence on these points, it is an unsettled question whether this Government could well maintain a claim to sovereignty over this island, based on the mere occupation thereof by a private citizen." However, before the Department's instruction was received by the Consul, the Assistant High Commissioner of the British Government for the Western Pacific informed the Consul that the British Government considered Swain's Island to be American territory and that the taxes collected from Mr. Jennings would be returned to him.⁴⁷

During the summer of 1917 certain natives, former residents of Swain's Island, appeared before the native court of Western Samoa and filed charges of cruelty against Mr. Jennings. The British Embassy at Washington under date of January 30, 1918, informed the Department that His Majesty's Government understood that

⁴⁷ Correspondence not printed.

Swain's Island was American territory and, accordingly, transmitted to the Department for consideration a copy of the evidence presented in support of the charges. The evidence was referred to the Secretary of the Navy, who caused an investigation to be made respecting the conditions obtaining on the island. Such investigation disclosed that the complaints were not justified and the Department so advised the British Embassy under date of January 20, 1919.⁴⁸

Eli Hutchinson Jennings died at Swain's Island in October, 1920. By his last will and testament, all his property, including Swain's Island, was left to his daughter, Anne Eliza Carruthers, wife of Irving Hetherington Carruthers, a British subject, and to his son, Alexander Jennings, as tenants in common. Irving Hetherington Carruthers, who was named sole executor and trustee, in 1921 endeavored to probate the will of his father-in-law but no court could be found which would exercise jurisdiction. Two prior wills of members of the Jennings family purporting to devise Swain's Island, were probated in the American Consular Court at Apia, Samoa. However, the extraterritorial jurisdiction formerly exercised by the American Consular Court at Apia came to an end upon the conclusion on December 2, 1899, of the Convention to Adjust the Question between the United States, Germany and Great Britain in respect to the Samoan Islands,⁴⁹ and the American Consul at Apia since he now exercises no judicial powers is without authority to probate the will or to grant letters testamentary.

Mrs. Carruthers died intestate in August, 1921, and letters of administration were granted by the British High Court of Western Samoa to Mr. Carruthers, who was appointed guardian of the five minor children and administrator of the estate of his deceased wife. It is understood, however, that the letters of administration granted by the British Court affect only such property of the estate as is situated in Western Samoa and do not cover Swain's Island, over which that Court has declined to exercise jurisdiction. Both Mr. Carruthers and Mr. Jennings, who apparently is not satisfied with Mr. Carruthers' management of the property, are desirous of having the jurisdiction of the administrative and judicial authorities of the Government established in American Samoa by the Navy Department extended to Swain's Island. The matter was brought to the attention of the Navy Department and that Department under date of March 30, 1921, expressed doubt whether the judicial authorities of the Government established in American Samoa were vested with requisite jurisdiction under existing circumstances of undeclared

⁴⁸ Correspondence not printed.

⁴⁹ Malloy, *Treaties*, 1776-1909, vol. II, p. 1595.

American sovereignty over Swain's Island to probate the will of Eli Hutchinson Jennings.⁵⁰

The status of Swain's Island so far as the jurisdiction of the United States is concerned cannot accurately be defined. The island, under the name Quiros, appears on the list of guano islands appertaining to the United States, which have been bonded under the Act of Congress approved August 18, 1856.⁵¹ That Act, the provisions of which are embodied in Sections 5570-5578 of the Revised Statutes, authorizes the President, in his discretion, upon the fulfillment of the conditions enumerated therein to declare that islands or keys not within the jurisdiction of any other Government, and upon which guano deposits have been discovered by American citizens, shall appertain to the United States. It is questionable, in view of the interpretation given the Act of August 18, 1856, by the Courts, whether an island declared to appertain to the United States becomes thereby a part of the territorial domain thereof. In the case of *Grafflin versus the Nevassa Phosphate Company of New York* (35 Fed. page 474), the Court stated in part as follows:

"Looking to the language and purpose of the act of Congress, which is entitled 'An act to authorize protection to be given to citizens of the United States who may discover deposits of guano,' we find nothing which indicates that it was the intention of Congress to claim title to or to recognize in the discoverer, who was to be protected in the exclusive occupancy of the island for the purpose of obtaining and shipping guano therefrom, any title to the land; on the contrary, the provisions of the law entirely negative any idea that such islands were in any sense to become part of the territorial domain of the United States. It is clear that the United States extends its protection to the discoverer and his assigns solely to enable him to obtain the guano. The act of Congress does not authorize or countenance the establishment of any form of governmental authority or local tribunal; it does not look to colonization or permanent settlement. It treats these islands, as in fact they are, as unsuited for permanent settlement by civilized communities, and as only temporarily occupied for the purpose of obtaining the guano."

I may also mention that a further complication with regard to the status of Swain's Island arises from the fact that no guano has, at least for some years, been removed from the island and the question whether the limited jurisdiction conferred by the Guano Islands Act continues over an island after the removal of guano has ceased does not appear to have been passed upon by the courts. While it is questionable whether the United States has acquired sovereignty over Swain's Island by reason of the provisions of the Act of August 18, 1856, it appears to be clear that no other country is in a position to assert a claim to the island. The fact that the island is included in

⁵⁰ Correspondence not printed.

⁵¹ 11 Stat. 119.

the list of guano islands appertaining to the United States, and has since 1856 been continuously in the possession of the Jennings family, who have always regarded themselves as American citizens, and that American jurisdiction over the island has been recognized by Great Britain, the only other country which might be in a position to dispute an American claim thereto, would seem to place upon this Government the responsibility either of extending its sovereignty over Swain's Island and assuming the obligations which such a course would necessarily entail, or of disclaiming the exercise of any control or jurisdiction over the island and the inhabitants thereof.

The Attorney General of the United States in an opinion dated February 8, 1918, (31 Opinion, page 216) regarding the extension of sovereignty over the Swan Islands, whose status appears to be similar to that of Swain's Island, stated in part as follows:

"These facts and circumstances are sufficient in my opinion to warrant the statement that no other country has any proper claim to these islands, and that the United States Government may at any time assert its sovereignty over them by appropriate action. As to the form which that action should take, that is a matter for the consideration of the executive and of the legislative branches of the Government, as a political measure relating to acquisition of territory (see *Foster v. Neilson*, 2 Peters 253 (1829); *Garcia v. Lee*, 12 Peters 511 (1838); *United States v. Lynde* (1870), 11 Wall., 632), and not a proper subject upon which this Department should give an opinion."

Under the circumstances, I am of the opinion that it would be desirable to have Congress indicate its desire or willingness to extend the sovereignty of the United States over Swain's Island and to place it under the jurisdiction of the administrative and judicial authorities of American Samoa.

It is believed that the purpose might appropriately be accomplished by a Joint Resolution of Congress along the lines of the attached draft. This draft has received the approval of the Secretary of the Navy.

Respectfully submitted,

CHARLES E. HUGHES

WASHINGTON, May 22, 1924.

[Enclosure]

*Proposed Joint Resolution Extending the Sovereignty of the United States over Swain's Island and Making the Island a Part of American Samoa*⁵²

Whereas Swain's Island (otherwise known as Quiros, Gente Hermosa, Olosega and Jennings Island) is included in the list of Guano

⁵² The resolution was approved by Congress on Mar. 4, 1925; 43 Stat. 1357.

Islands appertaining to the United States, which have been bonded under the Act of Congress approved August 18, 1856; and

Whereas the Island has been in the continuous possession of American citizens for over fifty years and no form of government therefor or for the inhabitants thereof has been provided by the United States: Therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the sovereignty of the United States over American Samoa is hereby extended over Swain's Island which is made a part of American Samoa and placed under the jurisdiction of the administrative and judicial authorities of the government established therein by the United States.

ALBANIA

RECOGNITION BY THE UNITED STATES OF THE GOVERNMENT OF AHMED ZOGU¹

875.01/258 : Telegram

The Minister in Albania (Grant-Smith) to the Secretary of State

TIRANA, January 5, 1925.

[Received January 6—10:05 a. m.]

The Prime Minister who fled in June last has returned together with most of his colleagues and announced the resignation of his Cabinet. A new one is in process of formation under Ahmet Zogu as Prime Minister. One regent remains, the others' terms having expired. Ahmet Zogu is admittedly dictator of Albania and having foreign support will doubtless remain so for some time.

In view of his having been sentenced by a court, whose jurisdiction has not been questioned, as one of those responsible for the murder of Coleman and De Long,² early instructions are respectfully requested as to the attitude to be assumed towards the new Government. My foreign colleagues are preparing to accept it as fully regular. Copy to European Information Center.

GRANT-SMITH

875.01/259 : Telegram

The Minister in Albania (Grant-Smith) to the Secretary of State

TIRANA, January 8, 1925—6 p. m.

[Received January 9—10:30 a. m.]

3. The Italian Government will withhold recognition from the Government of Ahmed Zogu even though it may fulfill constitutional forms but will await developments. My Italian colleague, who informs me of this, had offered the contrary advice. French, British, Servian and Greek representatives seem to anticipate no difficulties will be raised by their Government[s]. Ahmed Bey has assumed portfolio of Ministry of Foreign Affairs ad interim. Con-

¹ For previous correspondence regarding relations with the revolutionary government in Albania, see *Foreign Relations*, 1924, vol. I, pp. 306 ff.

² Robert Lewis Coleman and George B. De Long, American citizens, were murdered by bandits in Albania, Apr. 6, 1924.

stituent Assembly adjourned last May reconvened for January 15th to regularise new regime.

GRANT-SMITH

875.01/258 : Telegram

The Secretary of State to the Minister in Albania (Grant-Smith)

WASHINGTON, January 10, 1925—2 p. m.

2. Your unnumbered January 5 and No. 2, January 6, 10 a. m.³ In the event that government of Ahmet Zogu is firmly established Department would not be disposed indefinitely to withhold recognition for the reason indicated in second paragraph of your telegram of January 5, since careful examination of the notes of the trial, as submitted in your despatches No. 358, November 29, 1924, and No. 359, December 6,⁴ has failed to convince Department there is any serious evidence to support the charge, apparently advanced for political reasons, that Zogu was implicated in the killing of Coleman and De Long.

Pending further instructions from the Department you should maintain informal relations with the present authorities and keep Department fully informed of action of other powers. Also telegraph briefly regarding stability of present régime and submit statement of your views as to weight of evidence brought against Ahmet Zogu.

HUGHES

875.01/260 : Telegram

The Minister in Albania (Grant-Smith) to the Secretary of State

[Paraphrase]

TIRANA, January 14, 1925—7 p. m.

[Received January 15—2:32 a. m.]

4. Department's 2, January 10, 2 p. m. Chiefly because of fear inspired by Zogu the regime appears to be relatively stable. Portions of Northern Albania are as yet not entirely pacified.

In spite of the nature of the evidence brought against Zogu at the murder trial it seems that the fact that he was convicted is almost the only hope left of eventually securing the arrest and punishment of the murderers and their accomplices who without doubt have received protection from high authority. In order to clear Zogu officially the case is to be reopened.

³ Latter not printed.

⁴ Neither printed.

I am trying to convince Zogu that the only way to clear his name is by swift and searching justice since he has been branded as a criminal before the world. Probably the whole matter will be dropped as soon as the records of the court have been changed to Zogu's satisfaction, if we disregard the verdict from the outset.

GRANT-SMITH

875.01/260 : Telegram

The Secretary of State to the Minister in Albania (Grant-Smith)

WASHINGTON, January 22, 1925—3 p. m.

3. Your No. 4, January 14, 7 p. m. Department feels there is nothing to be gained by indefinitely withholding recognition, nor does it appear prosecution those responsible killing Coleman and De Long would be materially affected by such decision.

If therefore you can secure definite assurances from Ahmet Zogu that the prosecution will be pressed, Department would consider sending you early instructions to accord recognition. Before taking this step, however, Department desires to know what definite action has been taken subsequent to your No. 3, January 8, 6 p. m. by other powers and whether assembly has met and given vote of confidence to new régime.

HUGHES

875.01/261 : Telegram

The Minister in Albania (Grant-Smith) to the Secretary of State

TIRANA, January 25, 1925—9 a. m.

[Received January 26—3:20 p. m.]

6. Referring to your January 23 [22], 1 [3] p. m., number 3. Assembly gave vote of confidence 19th. Only British, Greek and Bulgarian representatives having [have] replied to formal notification. French colleague requesting instructions. Italian Minister left on extended leave of absence 18th. Republic proclaimed 21st. All but American representative sent acknowledgment in reply to official notification. Italian Chargé d'Affaires asserts his was noncommittal. Ahmet Bey down with influenza. Will [omission] additional assurances as soon as possible. Copy to European Information Center.

GRANT-SMITH

875.01/265 : Telegram

The Minister in Albania (Grant-Smith) to the Secretary of State

TIRANA, January 29, 1925—5 p. m.

[Received January 30—10:29 a. m.]

8. My 6, January 25, 9 a. m. In response to informal written inquiry Ahmet Bey replies that in order to prove the falsity of the charge brought against him in connection with the murders every possible measure has been already taken for the arrest, exemplary punishment of those responsible and he is confident that the results will be positive.

The Italian Chargé d'Affaires in pursuance of instructions has replied to the notification of the vote of confidence formally but without enthusiasm. Mussolini did likewise to second telegram from Ahmet Bey announcing the Republic. In view of the purport of the Prince's note mentioned above nothing would presumably be gained by our longer deferring recognition. Copy to European Information Center.

GRANT-SMITH

875.01/265 : Telegram

The Secretary of State to the Minister in Albania (Grant-Smith)

WASHINGTON, January 31, 1925—6 p. m.

5. 1. Your No. 8, January 29, 5 p. m. and No. 6, January 25, 9 a. m. You are authorized to extend recognition to the new régime in Albania and to acknowledge the receipt of official notification of establishment of the republic.

2. Department's No. 1, January 9, 7 p. m. and your despatch No. 362, December 12.⁵ When above action has been taken you are authorized leave of absence as requested.

3. Telegraph action taken.

HUGHES

875.01/266 : Telegram

The Minister in Albania (Grant-Smith) to the Secretary of State

TIRANA, February 3, 1925—3 p. m.

[Received February 4—7:51 a. m.]

10. Department's 5, January 30 [31], 6 p. m. Acknowledgment notification of vote of confidence and of adoption of republican form of government made under date of 2d instant.

Copy to European Information Center.

GRANT-SMITH

RENEWED REPRESENTATIONS BY THE UNITED STATES FOR EQUITABLE TREATMENT OF AMERICAN OIL INTERESTS IN ALBANIA^{*}

875.6363/157 : Telegram

The Secretary of State to the Minister in Albania (Grant-Smith)

[Paraphrase]

WASHINGTON, February 4, 1925—6 p. m.

6. The Standard Oil Company of New York informs the Department that it has received word of renewed activity on the part of Anglo-Persian in Albania. The company is disposed to send a representative to Albania should the situation warrant. Please make a brief telegraphic report.

HUGHES

875.6363/156 : Telegram

The Minister in Albania (Grant-Smith) to the Secretary of State

[Paraphrase]

TIRANA, February 4, 1925—7 p. m.

[Received February 5—12:07 a. m.]

11. In the course of an interview which I had today with the President and Minister for Foreign Affairs, I repeated representations concerning the murders⁷ and reminded them of our position regarding the matter of the oil concessions. Their assurances with respect to the former were satisfactory, but on the latter question both Ahmed and the Minister maintained a noncommittal attitude. They promised to give me a statement on the 7th defining the Government's attitude. The Italian representative has urged that the matter be postponed, and the Yugoslav representative has asked for instructions from Belgrade immediately. Ahmed Bey told me that the British Minister will request earnestly a speedy conclusion of the matter. The arrival of the Anglo-Persian representative is expected. No news has been received of the Standard Oil agent.

GRANT-SMITH

^{*}For previous correspondence regarding oil concessions in Albania, see *Foreign Relations*, 1923, vol. I, pp. 371 ff.

⁷Robert Lewis Coleman and George B. De Long, American citizens, were murdered by bandits in Albania, Apr. 6, 1924.

875.6363/158 : Telegram

The Minister in Albania (Grant-Smith) to the Secretary of State

TIRANA, February 5, 1925—5 p. m.

[Received 7:40 p. m.]

12. Your 6, February 4, 6 p. m. No further information available other than contained in my 7, January 26 [25], 9 a. m.,⁸ and 11, February 4, 7 p. m., except that Yugoslav Chargé d'Affaires has urged postponement of decision on oil concession until assembly of new Parliament. Copy to foreign information bureau.⁹

GRANT-SMITH

875.002/15 : Telegram

The Chargé in Albania (Kodding) to the Secretary of State

TIRANA, February 10, 1925—9 a. m.

[Received 5:23 p. m.]

15. The Cabinet as revised by the President of the Republic received unanimous vote of confidence yesterday afternoon. Mufid Bey Libohova who remains Minister for Foreign Affairs ad interim announced that two projects to facilitate entry of foreign capital will soon be presented to the Assembly.

Copy to European Information Center.

KODDING

875.6363/160 : Telegram

The Secretary of State to the Minister in Albania (Grant-Smith)

[Paraphrase]

WASHINGTON, February 10, 1925—3 p. m.

7. The Department has information that Mr. Sheffield¹⁰ is shortly to leave the United States and will proceed at once to Tirana, where he should arrive about February 28th.

HUGHES

⁸ Not printed.

⁹ i. e., European Information Center.

¹⁰ E. S. Sheffield, representative of the Standard Oil Co. of New York.

875.6363/161 : Telegram

The Chargé in Albania (Kodding) to the Secretary of State

TIRANA, February 11, 1925—7 p. m.

[Received February 12—9:20 a. m.]

16. Legation's 13, February 7 [8], 8 p. m.¹¹ The Minister for Foreign Affairs stated upon being pressed this morning that the Constituent Assembly would possibly remain in session for about 20 days more and if so the granting of the oil concession would be considered although, according to the Foreign Office, the Cabinet has not yet acted upon the question. The British Minister is said to be exerting pressure in his almost daily conferences with the Ministers. One of the two projects mentioned in my 15, February 10, 9 a. m. is admitted by the Ministry to be banking concession to British representatives who are now in Tirana. He was noncommittal concerning the second. Situation is very acute.

Copy to European Information Center.

KODDING

875.6363/162 : Telegram

The Acting Secretary of State to the Chargé in Albania (Kodding)

WASHINGTON, February 13, 1925—6 p. m.

8. Your 16, February 11, 1 [7] p. m., and 17, February 11, 7 p. m.¹² Department assumes that the Albanian Government would not desire to take any final action in the granting of a concession without affording to interested American companies adequate opportunity to present their proposals which should receive the same consideration at the hands of the Albanian Government as proposals submitted by companies of any other nationality. Further, Department assumes that Albanian Government would in no case be disposed to grant any concession of an essentially monopolistic or exclusive character either as regards prospecting or exploitation. In this connection you will carefully review Department's instruction No. 18 of April 18, 1923,¹³ and if the situation in your opinion justifies you should make appropriate representations to the Albanian Government for the protection of interested American companies.

GREW

¹¹ Not printed.¹² Latter not printed.¹³ *Foreign Relations*, 1923, vol. I, p. 383.

875.6363/167 : Telegram

The Acting Secretary of State to the Chargé in Albania (Kodding)

WASHINGTON, February 13, 1925—7 p. m.

9. Department informed by Standard Oil Company of New York that they are cabling the following message directly to Albanian Minister of Foreign Affairs:

"We are advised that you have been erroneously informed our company is no longer interested in obtaining an oil concession in Albania. We hasten to correct any such impression as you may have and to state unqualifiedly that we are very much interested in obtaining a concession. May we express the hope it will be consistent for Your Excellency to postpone action in respect to the granting of the concession to others pending the arrival in Tirana of our representative, Mr. E. S. Sheffield, who sailed from New York February 11th and should be with you at the end of February. Accept please our assurances of highest esteem."

This message is repeated for your information but there would be no objection to your indicating to the Minister of Foreign Affairs that you have been informed that message has been sent. In the event that you have reason to believe that due to telegraphic or other interference it has not been received by Albanian Government, you may hand Minister of Foreign Affairs a copy but without covering communication from the Legation.

Keep Department fully advised of developments.

GREW

875.6363/165 : Telegram

The Chargé in Albania (Kodding) to the Secretary of State

TIRANA, February 13, 1925—11 p. m.

[Received February 14(?)—3:56 p. m.]

18. My 17, February 11, 9 [7] p. m.¹⁴ The oil concession question reached such an immediately critical stage yesterday that I presented a firm note to the Minister for Foreign Affairs reasserting the American position and mentioning the rights our citizens expect to enjoy by virtue of accordance of most-favored-nation treatment and other promises, conditions precedent to American recognition of the Albanian State. In order that these rights may not be denied I requested that action on the concession be postponed until the American companies should have had time to resume negotiations.

The Italian Chargé d'Affaires declared he informed the Minister for Foreign Affairs that his Government would consider the contemplated granting of the oil concession an act of hostility. The Servian Chargé d'Affaires states that while presenting the protest of his Gov-

¹⁴ Not printed.

ernment on this subject he gained the impression that the promise of British support for a League of Nations loan is influencing Albanian Government, which is in dire financial straits, to accept immediately Anglo-Persian proposal.

Instructions are requested to govern the Legation's further steps inasmuch as only the strongest measures could affect situation. Copy to European Information Center.

KODDING

875.6363/165 : Telegram

The Secretary of State to the Chargé in Albania (Kodding)

WASHINGTON, February 16, 1925—6 p. m.

10. Your 18, February 13, 11 p. m. Department assumes that you have now received telegrams No. 8, February 13, 6 p. m. and No. 9, February 13, 7 p. m. Your action in making representations to Albanian Government is approved and it is desired that you follow up this matter vigorously with a view to reserving an opportunity for American interests to be heard before final action is taken.

Keep Embassy Rome and Legation Belgrade advised of developments and continue to report fully to Department.

HUGHES

875.6363/169 : Telegram

The Chargé in Albania (Kodding) to the Secretary of State

TIRANA, February 16, 1925—6 p. m.

[Received February 17—3:04 a. m.]

20. The Anglo-Persian concession was ratified by the Albanian Constituent Assembly this afternoon by 50 votes to 6 after a short discussion. Although the Assembly dispensed with reading of the concession its terms are believed to be substantially identical with those of the agreement transmitted to the Department with despatch number 115, June 18, 1923,¹⁵ which proposal last received consideration as reported in telegram 56, September 27, 1923, 5 [6?] p. m.¹⁶

At the same time that the Foreign Office was expressing to the Legation regret that the efforts of the Government to delay consideration of the oil concession until a later date had failed, the Minister of Public Works, when asked by a deputy to state the Government's position, requested the Assembly to accept Anglo-Persian proposal. Copy to European Information Center.

KODDING

¹⁵ Not printed.

¹⁶ *Foreign Relations*, 1923, vol. I, p. 393.

875.6363/174 : Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

[Paraphrase]

ROME, February 23, 1925—noon.

[Received 12:07 p. m.]

36. Regarding the Albanian oil concession. Active negotiations have been in progress between British and Italian Governments since the ratification of the Anglo-Persian oil concession. Italy will, I suspect, be granted one-fourth of the Albanian concession (25 percent is the figure mentioned) and Anglo-Persian may thus secure hold on Italian oil, since the Sinclair concession¹⁷ has been abrogated.

FLETCHER

875.6363/178 : Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

[Paraphrase]

ROME, February 26, 1925—7 p. m.

[Received February 27—1:55 a. m.]

39. I have just had an interview with Contarini¹⁸ and he states that negotiations with Great Britain regarding Anglo-Persian oil concession in Albania are still actively in progress and that Italy still insists on securing its concession for 50,000 hectares. He tells me that the Anglo-Persian concession extends to approximately 200,000 hectares, but that the area is not defined by metes and bounds, and that Italy has not abandoned hope. I mentioned press reports from Rome and London stating that Anglo-Persian would grant Italy or Italian capitalists a certain share in the Albanian concession in return for which Italy would concede certain rights of exploitation in Italy to the Anglo-Persian Company. He absolutely denied this, declaring that there was no suggestion of Italian oil lands being involved in these negotiations, and intimated to me that the Italian Government would not be satisfied with a share in the Anglo-Persian concession in Albania, but wished a distinct and separate concession for Italy.

Repeated to London.

FLETCHER

¹⁷ Contract between the Italian Government and the Sinclair Exploration Co. for exploitation of Italian petroleum resources.

¹⁸ Senator Contarini, Director General of the Italian Foreign Office.

875.6363/176 : Telegram

The Secretary of State to the Chargé in Albania (Kodding)

WASHINGTON, March 2, 1925—5 p. m.

13. Your 22, February 25.¹⁹ Department understands that Sheffield, Standard Oil representative, will shortly arrive in Tirana with a view to taking up further with the Albanian Government his Company's interest in the Albanian field. Department desires you to consult with him and to communicate, with your comments, his views of the situation which the Department desires to consider before making a reply to your telegram of February 25th.

You should not fail, however, to take any opportunity to point out to the Albanian Government that this Government confidently expects the Albanian Government to give practical effect to the assurances embodied in that Government's note of June 18 [25], 1922 to Consul General Blake.²⁰

[Paraphrase.] Rumors have come to the Department that Anglo-Persian would be disposed to reach an agreement with both American and Italian groups interested. Not being supplied with information regarding a basis for this sort of agreement, and viewing this as largely a matter of business policy for the American Company to determine, the Department has not advised the American Company concerned of this reported attitude of the Anglo-Persian interests. [End paraphrase.]

HUGHES

875.6363/181 : Telegram

The Chargé in Albania (Kodding) to the Secretary of State

[Paraphrase]

TIRANA, March 6, 1925—11 a. m.

[Received 10:22 p. m.]

27. Department's telegraphic instruction 13, March 2d. Mr. Sheffield advises me confidentially that he has reported to Standard Oil Company that most practical course would be to regard the petroleum situation as an accomplished fact and to proceed to investigate whether it would be desirable to make further proposals.

Rumors persist and have reached both Sheffield and the Legation, although without verification, that the Italians have already formed an agreement with Anglo-Persian. It is said that the terms include Italy's insistence that an oil district be granted to her, which would

¹⁹ Not printed.²⁰ See despatch No. 3, Aug. 2, 1922, from the Commissioner in Albania, p. 511.

then be exploited jointly with Anglo-Persian. The frank attitude of the Italian Legation toward this mission has been altered since the granting of the Anglo-Persian concession.

Copy to Rome and to European Information Center.

KODDING

875.6863/185

*The Vice President of the Standard Oil Company of New York
(Cole) to the Secretary of State*

[Extract]

NEW YORK, March 10, 1925.

[Received March 11.]

SIR: We take this opportunity of giving you below a copy of Mr. E. S. Sheffield's cable, of March 4th, text of which was read to you over the telephone Saturday morning:

"In accordance with contract ratified February 18th Anglo-Persian Oil Company, Ltd. have exclusive right to 200,000 hectares until April 30th, this year, when they must choose not more than 50,000 hectares final concession in which drilling obligations are much easier than proposed by us; royalty on the gross production of crude oil 13.5%, other conditions similar to ours. Inasmuch as it is barely possible Anglo-Persian Oil Company, Ltd. may not make good selection on April 30th a similar concession covering second choice of areas might be very valuable. In this connection please take notice they have not sufficient time to drill before April 30th and that their geology in Jugo-Slavia was very poor. We are trying to learn where Anglo-Persian Oil Company, Ltd. is to choose areas and chance for similar concessions to us. Representatives of Sinclair Oil & Refining Corporation have not been here and informed us at Rome they have abandoned project here. Anglo-Persian Oil Company, Ltd. representatives have just arrived".

Respectfully,

H. E. COLE

875.6863/186: Telegram

The Chargé in Albania (Kodding) to the Secretary of State

TIRANA, March 10, 1925—10 p. m.

[Received March 11—9:55 a. m.]

29. My 27, March 6. Minister for Foreign Affairs stated on the 6th that the Albanian Government would not fail to give practical effect to the assurances embodied in its note of June 25, 1922.²¹

²¹ See despatch No. 3, Aug. 2, 1922, from the Commissioner in Albania, p. 511.

Standard Oil Company's representative states that at the Albanian Government's invitation he today presented his company's proposal for a second choice but that the Minister for Foreign Affairs informed him that due to political considerations an agreement had been practically completed to give the Italians second choice and thirty odd thousand hectares of the oil area. Above not officially confirmed as efforts to see the Minister for Foreign Affairs were unsuccessful. At an interview tomorrow I propose to [apparent omission] but in view of the conditions mentioned in my 22, February 25, 8 a. m.,²² further instructions are requested. Copy to European Information Center.

KODDING

875.6863/187 : Telegram

The Chargé in Albania (Kodding) to the Secretary of State

[Paraphrase]

TIRANA, March 11, 1925—noon.

[Received 9:09 p. m.]

30. Supplementing the information contained in my 29, March 10, the Minister for Foreign Affairs made known this morning that the President of Albania on March 8 granted to the Italian railway administration extensive rights in Albania, including 30,000 hectares of oil lands. The grant was made by decree, which does not require ratification. The lands supplement rather than represent a separate choice from the Anglo-Persian selection. Upon my mentioning the assurances recently repeated, which had been given to the American Government and interests, he declared that he was willing to give them practical effect by granting third choice to American interests, should they accept at once, otherwise third choice would be given to the French.

The Minister admitted that the American proposals had not been considered until after the grant to Italy and stated that there were at stake contingent agreements with Italy covering banking, mineral, and other concessions, and a loan. He showed me parts of a confidential agreement which had been signed by the Italian Minister and which provided for a grant of a 50-million gold franc credit to Albania over a period of 5 years.

I stated that I would transmit to Washington the opinion that the American position defined in the Department's telegram No. 18 of April 18, 1923,²³ and frequently repeated, had not been met

²² Not printed.

²³ *Foreign Relations*, 1923, vol. I, p. 383.

by the Albanian Government. Copy to the European Information Center. Repeated to the Embassy at Rome.

KODDING

875.6368/187 : Telegram

The Secretary of State to the Chargé in Albania (Kodding)

[Extract—Paraphrase]

WASHINGTON, March 17, 1925—6 p. m.

15. (1) The situation outlined in your 29, March 10, and 30, March 11, is very unsatisfactory and the Department wishes you to inform the Albanian Government to that effect candidly. As far as the Department can estimate the situation on the basis of facts in its possession, it would appear that the Albanian Government, by inducements which are still unfulfilled, has led American companies to expend considerable time and effort in Albania, and that the Government has reaped considerable benefit from the geological and other work carried on by these companies. Besides, it would appear that Albania has been able to profit largely from the terms, advantageous to Albania, which have been proposed by these companies and which have compelled foreign competitors to propose more reasonable terms than they would have been inclined to make otherwise. Even the Anglo-Persian concession does not seem to be as favorable to the Albanian Government in certain respects as those which the American companies have proposed.

(2) Additionally, the situation regarding the punishment of those guilty of the murder of Coleman and De Long has worked out most unsatisfactorily and the Department is of the opinion that its patient attitude in this matter possibly has been misunderstood. In fact the Department is unable to reconcile the present attitude of the Albanian Government with its alleged desire for closer relations with the United States and its repeated expressions of friendship. One of the heirs has put before the Department a request for support for a claim for indemnity. The matter is now being considered.

(3) You are at liberty to inform the Albanian Government of the preceding and to add that unless there is an improvement in the situation and you are able to inform the American Government to that effect, you would be inclined to make the recommendation that the sending of an American Minister to Tirana be withheld.

(4) In the same connection you may also refer to the attitude of the Department in the matter of receiving an Albanian consul in New York.²⁴

²⁴ Agreement to the appointment of Dr. Terenc Toçi as Albanian consul general at New York had been temporarily withheld.

Endeavor to obtain the text of the Italian agreement with Albania and especially inform Department concerning the period within which the second choice of areas for exploitation by Italian interests is to be made.

KELLOGG

875.6363/199 : Telegram

The Chargé in Albania (Kodding) to the Secretary of State

[Extract]

TIRANA, March 22, 1925—2 p. m.

[Received March 23—3:15 p. m.]

32. Department's 15, March 17.

1. According to interpretation of Sheffield and Legation, Italian concession renders 50,000 hectares indefinitely unavailable for exploitation. Decree provides for choice within 2 months of 50,000 hectares, from which 30,000 for exploitation may be chosen within research period. Research period of 3 years, which may be extended by mutual accord before deciding the time of official publication of ratification by Parliament of concession. Decree valid for 20 years without ratification and for 60 years if ratified.

KODDING

875.6363/205 : Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

[Paraphrase]

ROME, March 26, 1925—4 p. m.

[Received March 27—12:29 a. m.]

54. It is indicated from informal conversations at the Foreign Office that, however glad Italy was to secure American cooperation at Tirana for support of the open door so long as the door actually was open, Italy realized after the grant of the Anglo-Persian concession that it was then each one for himself for the remainder. The intimation was that after the Anglo-Persian concession had been granted, it had become necessary that Italy, in view of both the foreign and domestic political situations, not give the appearance of having suffered a setback in Albania, thus explaining the Italian efforts both in London and at Tirana to secure the concession and thus to have something to show. The British appear to have acted in a conciliatory spirit.

I gathered from conversation with Sheffield that, if properly selected, 50,000 hectares could include all the oil-bearing areas in Albania, and that the Italians did not know where the oil-bearing territories were. Inasmuch as the Italian Government have more interest in the political and strategic situation than in petroleum, it would appear that American interests could well go ahead and take their chances with third choice; for if the British do not pick the right areas, it is practically sure the Italians will not, as the districts to be assigned to them seem almost to have been decided upon.

After considering the matter further, I withdraw the suggestion I made yesterday ^{24a} about representations to the Italian Ambassador in Washington.

Repeated to Tirana and London.

FLETCHER

875.6363/211

The Chargé in Albania (Kodding) to the Secretary of State

No. 419

TIRANA, March 30, 1925.

[Received April 21.]

SIR: I have the honor to report that on March 21st a call was made upon His Excellency Mufid Bey Libohova, Albanian Minister for Foreign Affairs in order to present the representations authorized by the Department's telegram No. 15 of the 17th instant concerning the state of Albanian-American relations. Before the position taken by the Department was disclosed to him the Minister for Foreign Affairs showed me as he had previously done at the time of my representations on March 11th portions of the confidential agreement signed by the Italian Minister which grants a fifty million gold franc credit to Albania. As the loan was supposed to be secret Mufid Bey did not mention details other than to state that its main purpose other than as consideration for the petroleum concession was to provide for the development in Albania by Italian interests of banking facilities, railways, tramways, bridges and agriculture.

The Minister for Foreign Affairs then listened to the reading of the American representations (as set forth in an enclosure ²⁵ with this despatch) concerning (1) the unsatisfactory situation created by the failure of the Albanian Government to carry out the assurances given in its note of June 25, 1922, to Consul-General Blake, ^{25a} (2) the situation created by the unsatisfactory development of the de Long and Coleman murder case. The Minister in informally com-

^{24a} Telegram not printed.

²⁵ Note *verbale* not printed.

^{25a} See despatch No. 3, Aug. 2, 1922, from the Commissioner in Albania, p. 511.

menting on the representations showed that he had no real understanding of either situation, presenting the point of view that only one of the murderers of the two Americans remained to be apprehended and punished and offering to permit a representative of the Legation to examine the records of the court which now has the matter in charge. It was pointed out that such an examination could have no influence upon the actual apprehension and trial of the alleged murderers involved whose names are already known.

The fact that the American Government might withhold the sending of a Minister to Tirana providing the unsatisfactory situations did not show improvement apparently affected Mufid Bey but very little. . . .

The Minister for Foreign Affairs was so perturbed, however; over the fact that the Department had been requested to support a claim for indemnity for Messrs. de Long and Coleman that he refused to accept my written representations until I had had time to consider the fact that should the two unsatisfactory situations be mentioned in the same paper he would be able to use it against the United States in the press and before the League of Nations. After carefully going over the representations again and finding that the two situations were not dependent upon one another in any way I left the above mentioned *Note Verbale* at the Foreign Office.

The Albanian Government's reply, copies of which are transmitted herewith both in the original and in translation, was dictated in my presence by the Minister for Foreign Affairs to the Secretary General of the Foreign Office, Djemail Bey Dino, on the 23rd instant. (Legation's telegram No. 33 of March 24).²⁶ The Minister showed even more by his attitude than by his Note that he did not understand either of the two situations or the serious view which the American Government took of them. He felt that the American Government was in no position to exercise effective pressure upon his Government and actually stated in a cheerful side remark that whatever happened it would not be war. . . .

I had asked for an appointment with the President of the Republic to follow the delivery of the Department's representations to the Foreign Office. Ahmet Bey Zogu was not able to receive me, however, until the afternoon of the 24th instant. He seemed to understand both the details and the significance of the unsatisfactory situations better than did his Minister for Foreign Affairs and stated that he regretted that Veisel Idrizi²⁷ had been killed in a fight with gendarmes who were pursuing him in an attempt to take alive this leader of the band of alleged murderers of the Americans. He wished that the Americans had a machine of some kind that could be secured

²⁶ Not printed.

²⁷ Charged with the murder of Coleman and De Long.

to go into the mountains to round up all the bandits and hoped that even without one all the murderers would be apprehended in the near future but it was beyond his power to command that this be accomplished by a certain date. To his definite knowledge Cub Sul Cana and Elez Hasani ^{27a} were being tracked down.

Concerning the unfulfilled commercial assurances the President gave his promise that he would instruct the Minister for Foreign Affairs to enter into an agreement of such a nature with the representative of the American company in Tirana that the American Government would be satisfied that a very real improvement had been made in the situation. . . . Mr. Sheffield states that up to the present date he has not been able to come to satisfactory terms with the Albanian Government for even a third choice of areas.

I have [etc.]

TROJAN KODDING

[Enclosure—Translation]

The Albanian Minister for Foreign Affairs ad interim (Mufid Bey Libohova) to the American Chargé (Kodding)

No. C IV 964

The Ministry of Foreign Affairs reiterates to the Legation of the United States of America its assurances as to the favorable reception of American requests in the economic and financial field. The Principle of the Open Door, according to the Albanian Government, has never ceased to be respected. The grant of the petroleum concession to the Railway Administration of the Italian State is combined with the institution of a State Bank in Albania and with the contracting of a loan of two million pounds sterling on the Italian market. It concerns, consequently, the existence of an indivisible economic whole. The American companies can without injury to the rights acquired by the Italians obtain other oil concessions on the same terms.

As to the concession granted to the Anglo-Persian the Albanian Government was engaged with regard to that company previous to the recognition of Albania by the Government of the United States.

In the note transmitted by the Legation of the United States to the Ministry of Foreign Affairs mention is made of profits which Albania should have derived from the geological work of American companies. The Albanian Government, as far as this Ministry knows, has not derived to date any profit from these works. As to the expenses incurred by the American companies it is evident that all these were made at their risk and peril.

As for the murder of the two Americans the Albanian Government, strongly moved by that regrettable incident, immediately took all the measures that the situation permitted. In the interval there

^{27a} Charged with the murder of Coleman and De Long.

has been the revolution of last June but for which the Judicial proceedings which resulted would have been finished at the present time. The legal cabinet on its return to the country undertook again with more care the acceleration of the judicial proceedings in question and according to the progress of the trial the expected judgment will shortly be given. Furthermore several of the alleged murderers have been killed not having wished to surrender alive.

Consequently the Albanian Government can not accept any responsibility of either a moral or material order; in a word, justice follows its course without any obstacle from any side. The courts will judge in full independence.

The Albanian Government warmly and sincerely desires the continuation of cordial relations between the United States of America and Albania.

TIRANA, March 23, 1925.

875.6363/207a : Telegram

The Secretary of State to the Chargé in Albania (Kodding)

[Paraphrase]

WASHINGTON, March 31, 1925—7 p. m.

20. The Department has received information from Mr. Cole, vice president of the Standard Oil Company of New York, to the effect that the granting to his company of third choice has been conditioned upon the payment of a contribution of between twenty and forty thousand dollars. Mr. Cole declares that he has told Sheffield that the company would not consider making any such contribution. He also states that Sheffield is instructed to proceed actively with his negotiations, but not to agree to any such suggestion.

At your discretion you may bring to the attention of the Albanian Government orally that the above report has reached the Department and that it fails to understand the suggestion that the fulfillment of promises given previously by the Albanian Government should be made conditional upon action which the American Government could only regard as improper on the part of an American company.

KELLOGG

875.6363/213

The Chargé in Albania (Kodding) to the Secretary of State

No. 453

TIRANA, June 1, 1925.

[Received July 2.]

SIR: Adverting to the petroleum concession situation in Albania I have the honor to report upon several developments which have

recently come to the notice of the Legation. Mr. Sheffield, the representative of the Standard Oil Company of New York, is continuing his negotiations to obtain a third choice of territory. His proposals have been accepted by all the members of the Cabinet with the exception of Mufid Bey Libohova, Minister for Foreign Affairs.

Mr. Sheffield expects to find a formula which will satisfy his company's interests and those of the *Crédit Générale des Pétroles* as well, thus avoiding any conflict between the French and American projects. Further opportunities for successfully demanding a contribution to personal funds will be materially reduced in this way, it is hoped.

The French proposals for an oil concession concern a limited area of about 2400 hectares which was defined and applied for several years ago. Approximately 1400 hectares of this area were granted by the Albanian Government to the Italian Railway Administration, but the French have held tenaciously to the point of view that they have a special position in this area and that it must eventually be granted to the *Crédit Générale des Pétroles*. I am informed by M. Gûys, the French Secretary of Legation and Consul, that his Government's Ambassador at Rome approached the Italian Government with a view towards securing a relinquishment of Italian rights over the above-mentioned territory desired by French interests. He was informed that inasmuch as an agreement existed between the Italian and English oil interests in Albania concerning selection of areas the Italians could relinquish no rights over territory which had been chosen until the Anglo-Persian Oil Company had been approached. Mr. Sheffield previously had stated that from a geological standpoint the English and Italian areas were chosen in so complementary a manner as to leave but little room for doubt that an agreement existed between the two interests.

Mr. H. C. A. Eyres, the British Minister, informs me that the French Government approached the British Foreign Office a short time ago, stating that the Anglo-Persian oil concession in Albania was a monopoly and requesting on this ground that certain areas be given up to French enterprise. The British Government refused to interfere in the matter and pointed out that the Anglo-Persian concession was not monopolistic, citing the grant of a larger area to the Italian Railroad Administration. Mr. Eyres felt that his Government would have interposed no objection had the French not made a matter of right of the question but had merely suggested negotiating an agreement with the Anglo-Persian Oil Company.

I have [etc.]

TROJAN KODDING

875.6363/215 : Telegram

The Chargé in Albania (Kodding) to the Secretary of State

TIRANA, July 8, 1925—10 p. m.

[Received July 9—12:06 p. m.]

45. Albanian Cabinet approved concession proposed by Standard Oil Company and referred it to Parliament yesterday.

Copy to European Information Center.

KODDING

875.6363/222

The Chargé in Albania (Kodding) to the Secretary of State.

No. 473

TIRANA, July 13, 1925.

[Received August 5.]

SIR: With reference to my telegram No. 45 of July 8th, 10 p. m., reporting that the Albanian Government had approved the petroleum concession proposed by the Standard Oil Company of New York and referred it to parliament on the 7th instant, I have the honor to confirm the information contained therein and to add that the legislature reached this item on its schedule today. The concession was referred to the committee on National Economy without discussion. The Minister of Public Works, M. Kocha Kotta, asked that this contract be given early consideration as an urgent measure, to which request the parliament agreed.

In my despatch No. 453 of June 1, 1925, the statements of M. Guys, Secretary of the French Legation, and Mr. Sheffield of the Standard Oil Company were reported as tending to show that an agreement existed between the Anglo-Persian Oil Company and the Italian Railway Administration for the selection by the former of the oil lands granted to Italian interests by the Albanian Government. M. Branko Lazarevitch, the Yugoslav Minister, informs me that he obtained an admission to this effect several days ago from Ahmet Bey Zogu, who was informed of the arrangement from the beginning. The latter added that the agreement was much broader than one for aid in selection of territories and provided for the complete exploitation of the Italian areas by the Anglo-Persian Oil Company for which the Italian interests were to be recompensed by financial payments.

I have [etc.]

TROJAN KODDING

JULY 15, 1925.

I reopen my despatch to state that the Albanian Chamber of Deputies ratified the Standard Oil Company's proposals for a con-

cession yesterday afternoon by a unanimous vote. A favorable vote in the Senate is expected within the next few days.

T. K.

875.6363/216 : Telegram

The Chargé in Albania (Kodding) to the Secretary of State

TIRANA, July 20, 1925—4 p. m.

[Received July 21—5:53 a. m.]

48. Ratification Standard Oil Company's concession in Albania completed yesterday.

KODDING

875.6363/225

The Minister in Albania (Hart) to the Secretary of State

No. 30

TIRANA, October 7, 1925.

[Received October 28.]

SIR: I have the honor to report that the Standard Oil Company of New York has completed the selection of lands under the concession ratified by the Albanian Parliament on July 14, 1925.

Selections have been made in two tracts, one of 47,000 hectares and the other of 6,000 hectares. The larger tract stretches along the northern shore of the Bay of Valona and runs north up the Adriatic coast approximately 25 miles, adjoining the western border of the Italian concession for probably 15 miles of this distance.

The smaller tract is on the north side of the Bay of Durazzo far removed from the selections made by the Anglo-Persian and the Italian companies. E. S. Sheffield, Standard Oil representative in Albania, speaks somewhat pessimistically of the outlook for oil on the lands selected for his company, but he is thought to be more optimistic than he would make believe. He is an engineer and geologist, as differentiated from the breezy oil stock promoters, and therefore has a professional reputation at stake. He admits that the geological structure is promising on that part of the selection lying on and near the Bay of Valona.

Significance also may be attached to the fact that this experienced geologist has seen fit to include in his company's concession such a large area on Durazzo bay. If oil should be found in paying quantities in this sector the competing companies doubtless would feel that their experts had been guilty of a serious oversight, because Durazzo has excellent harbor possibilities on the east side of the Adriatic and is near to an abundant timber supply, so essential to oil drilling operations on any large scale.

The Anglo-Persian Oil Company is preparing to start drilling its first well on the 12th of this month at a point about 15 miles north and slightly east of Valona.

I have [etc.]

CHAS. C. HART

**APPROVAL BY THE PARLIAMENT OF ALBANIA OF THE AMERICAN-ALBANIAN AGREEMENT EFFECTED BY AN EXCHANGE OF NOTES
JUNE 23 AND 25, 1922**

875.00/77

The Commissioner in Albania (Blake) to the Secretary of State

[Extract]

No. 3

TIRANA, August 2, 1922.

[Received August 29.]

SIR:

. . . I considered it my duty to address the following communication to the Prime Minister under date of June 23, 1922:

"Mr. Prime Minister: During informal conversations which I have had the honor of holding with Your Excellency, in my unofficial capacity as American Commissioner, assurances were offered that the authorities of the Albanian State, under a decree of the Regents, would be instructed by your government to duly recognize, throughout Albanian territory, all passports issued by the American Secretary of State, especially those carried by persons of Albanian origin who have acquired American nationality in conformity with the laws of the United States of America.

It may be found useful for me, on my part, to reiterate at this time points of view which I have already explained to Your Excellency concerning the attitude of the Department of State, in the interpretation and application of laws affecting naturalization in the United States, which is, to wit, that a naturalized citizen who returns to his country of origin and there resides continuously for a period of more than two years, shall be considered to have expatriated himself and thereby to have ceased any longer to be entitled to the rights of American citizenship, unless (a) such residence in his country of origin is for the purpose of trading directly and principally with the United States, or (b) to enable him to pursue studies or engage in missionary or other legitimate cultural and philanthropical work, or (c) because a state of poor health prevents his immediate return to the United States. The right of a naturalized citizen to benefit by any of these exceptions must be proven in each case by the submission of satisfactory evidence to the Department of State.

It would be a further source of gratification to me to be able to draw to the attention of my government the fact that similar assurances had been given by the Government of Albania that favored-nation treatment also would be accorded American interests in Albania, coincident with an initiation of formal diplomatic relations

between the Government of Albania and that of the United States of America; and that the Albanian Government will include this provision as a treaty clause in any future commercial convention that may be drawn up between Albania and the American Government.

In connection with the above, for the completion of the archives of this Commission, I venture to suggest the propriety of our confirming these understandings by an exchange of written communications.

Please accept, Mr. Prime Minister, the assurances of my highest consideration."

To the above, the Prime Minister replied as follows, under date of June 25, 1922:

"Mr. Commissioner: In response to your letter of June 23, 1922, I beg to state that the Albanian Government feels the utmost satisfaction to enter into correspondence with the unofficial representative of the United States Government, which more than once has saved Albania from partition and utter destruction, by pleading her cause during most critical periods of her history.

In connection with the two points you bring forth in your letter as needing settlement, before you could take any steps in favor of the official recognition of the Government of Albania by that of the United States, allow me to communicate to you that:

1. The Albanian Government will recognize the passports given by the authorities of the United States of America, to persons of Albanian origin, who are naturalized Americans in conformity with the American laws concerning nationalities.

2. In case a commercial treaty is concluded between the Government of the United States of America and that of Albania, the latter promises to insert in the said treaty, the most favored nation clause. Meanwhile, following the official recognition of the Government of Albania by that of the United States, and pending the conclusion of the treaty above mentioned, the American interests in Albania will receive the most favored nation treatment.

Furthermore, the Albanian Government is ready to show all kinds of facilities to the installation of American capital in Albania, as well as to accord concessions to American concerns.

Please accept, Mr. Commissioner, the assurances of my highest consideration."

I have [etc.]

MAXWELL BLAKE

711.75/9

The Minister in Albania (Hart) to the Secretary of State

No. 44

TIRANA, December 16, 1925.

[Received January 11, 1926.]

SIR: Engagements made by the Albanian state as the conditions upon which recognition was granted by the American Government

on July 28, 1922,²⁸ have at last been removed from the field of controversy, as I had the honor to report in my telegram No. 63 of December 14, 8 p. m.²⁹ By a unanimous vote both houses of parliament have approved these conventions in substantially the form set forth in the note of Djafer Ypi, president of the Council of Ministers, to Maxwell Blake, American Commissioner, under date of June 25, 1922.

Included herewith are copies of the measure as approved and of the report of the Minister for Foreign Affairs.

I have [etc.]

CHAS. C. HART

[Enclosure 1—Translation]

Proposed Law Approving the American-Albanian Agreement of June 23 and 25, 1922

The approval is proposed of the two conditions presented below:

1. The Albanian Government will recognize the passports granted by the authorities of the United States of America, in conformity with American laws concerning nationalities, to persons of Albanian origin naturalized in America.

2. In the event of the conclusion of a commercial treaty between the Government of the United States of America and the Government of Albania the latter promises to insert, on the basis of reciprocity, in the above mentioned treaty, the most favored nation clause. Meanwhile, following the official recognition of the Government of Albania by that of the United States of America and pending the conclusion of the treaty above mentioned the American interests in Albania shall receive the most favored nation treatment as well as the Albanian interests in America.

3. This law takes effect on the day of its publication.

4. The Ministry of Foreign Affairs and the Ministry of the Interior are charged with the execution of this law.

SUL STAROVA

*Min. of Finance and Min.
a. i. of Justice.*

M. JUKA

*Min. of Pub. Works and Min.
a. i. of the Interior.*

²⁸ See *Foreign Relations*, 1922, vol. i, pp. 594 ff.

²⁹ Not printed.

[Enclosure 2—Translation]

Report Rendered by the Albanian Minister for Foreign Affairs

TIRANA, November , 1925.

The approval is proposed of the two conditions of the United States of America for the following reasons:

1. The Albanian State is engaged to the United States of America according to decision No. 569 of the Ministerial Council dated June 22, 1922, as described below:

"The Albanian Government will recognize the passports granted by American authorities to Albanians naturalized in America in accordance with American laws on nationalities."

The international significance of the United States of America must be taken under consideration as well as our moral obligation to honor promises made by our State.

2. "The most favored nation" clause is a principle accepted by all countries and has become customary in the making of all treaties relating to commerce, always based on reciprocity.

3. The naturalization question is not of any great importance because the Albanians who become naturalized and return to our country would lose their American citizenship if they remained here for two consecutive years.

4. In order to give recognition to countries created after the world war the Government of the United States has imposed on them, as a *sine qua non* condition, the acceptance of the two above mentioned points.

H. VRIONI

711.75/10

The Minister in Albania (Hart) to the Secretary of State

No. 46

TIRANA, December 29, 1925.

[Received January 27, 1926.]

SIR: Inviting attention to my telegram No. 63, December 14, 8 p. m.,⁸⁰ and my despatch No. 44 of December 16, I have the honor to report that Albania's pledges to the American government made on June 25, 1922, (See Mr. Blake's despatch No. 3 of August 2, 1922), became the law of the land on December 28, 1925, by publication in the *Official Gazette*, government organ.

President Ahmet Zogu signed the measure on December 21, just seven days after parliament had given its unanimous approval. The President's sanction reads:

⁸⁰ Not printed.

"We the President of the Albanian Republic, approve this law passed by the legislative bodies and decree its application.

"Tirana, the 21st of December, 1925.

"A. Zogu"

"Musa Juka,

Minister of Public Works and Minister

a. i. of the Interior and for Foreign Affairs."

The Minister for Foreign Affairs, Hussein Vrioni, was absent at the time the law was signed which accounts for the signature of Musa Juka as Minister ad interim for Foreign Affairs.

I have [etc.]

CHAS. C. HART

AUSTRIA

INFORMAL AGREEMENT BETWEEN THE UNITED STATES AND AUSTRIA FOR CONTINUATION OF RECIPROCAL MOST-FAVORED-NATION TREATMENT IN CUSTOMS MATTERS¹

711.632/16 : Telegram

The Secretary of State to the Minister in Austria (Washburn)

[Paraphrase]

WASHINGTON, June 25, 1925—5 p. m.

25. Referring to your despatches No. 374 of December 29, 1923,² No. 419 of March 8, 1924, and No. 546 of September 17, 1924,³ on the subject of the Treaty of Friendship, Commerce, and Consular Rights.

This Government has under consideration the counterproposals which the Austrian Government has made and will shortly send you instructions regarding them. It is desired that you inform this Government whether after July 16, 1925, the Austrian Government intends to continue to accord American commerce most-favored-nation treatment as provided in articles 217, 218, 219, and 220 of the Treaty of Saint Germain-en-Laye,⁴ to which the United States received rights by the treaty of August 24, 1921, establishing friendly relations.⁵ July 16 is the date after which it is understood that the rights granted the Allied and Associated Powers under the articles referred to will cease.

It is the view of this Government that reciprocal most-favored-nation treatment, as now accorded to the commerce of Austria by the United States and by Austria to the commerce of the United States, ought to be continued until the negotiations now being conducted for the Treaty of Friendship, Commerce, and Consular Rights have been concluded and the treaty brought into force. Please take up the matter with the Austrian Foreign Office informally and learn whether it would be ready to assure continuance of most-favored-nation treatment as provided in the four articles referred to. Please report by telegram.

¹ For previous correspondence, see *Foreign Relations*, 1923, vol. I, pp. 898 ff.

² Dated Dec. 18, 1923, mailed Dec. 29, 1923; *ibid.*, p. 413.

³ Nos. 419 and 546 not printed.

⁴ Malloy, *Treaties*, 1910-1923, vol. III, pp. 3223-3229.

⁵ *Ibid.*, pp. 2493 ff.

You know, of course, of the provisions of section 317 of the Tariff Act of 1922,⁶ according to which the President is empowered to proclaim additional or new duties not exceeding 50 percent ad valorem or the equivalent on articles imported from any country which discriminates in respect to any customs duties or other charges, or in the classification or regulation of commerce, against the commerce of the United States. You should not, however, make reference to section 317 unless the attitude of the Austrian authorities necessitates it.

KELLOGG

711.632/19 : Telegram

The Minister in Austria (Washburn) to the Secretary of State

VIENNA, July 4, 1925—2 p. m.

[Received July 5—3:56 a. m.]

45. Department's telegram 25. During the absence of present Foreign Minister in Paris, Doctor Schüller who has matter in hand has given assurance that his informal understanding with me for the reciprocal application of most-favored-nation treatment will continue after July 16th until the treaty now being negotiated has been concluded and become effective.

Referring to my despatch No. 754, June 17th,⁷ Schüller intimated that recent tariff changes of Hungary and Czechoslovakia may oblige him in September to enter into discussion with respect to forthcoming treaty between the United States and Austria, on the lines of paragraph 222, Treaty of Saint Germain.

WASHBURN

⁶ 42 Stat. 858.

⁷ Not printed.

BELGIUM

CONVENTION BETWEEN THE UNITED STATES AND BELGIUM FOR THE PREVENTION OF SMUGGLING OF INTOXICATING LIQUORS, SIGNED DECEMBER 9, 1925

711.559/9

The Acting Secretary of State to the Belgian Chargé (Tilmont)

WASHINGTON, September 8, 1925.

SIR: I beg to refer to your conversation with Mr. William R. Castle, Jr., of this Department, on July 15, 1925, concerning the desire of your Government to conclude with the Government of the United States a convention for the prevention of smuggling of intoxicating liquors similar to the convention concluded between the United States and Great Britain on January 23, 1924.¹ You stated that you were convinced your Government would find satisfactory a convention identic with that signed by the United States and France.² You also stated that, if this Government is disposed to propose a convention which is identic with the convention signed by the United States and France, you would be grateful to receive at the same time a copy of the French text as signed by the two Governments.

I am pleased to enclose for the consideration of your Government a draft of a convention which this Government is disposed to conclude with your Government for the prevention of smuggling of intoxicating liquors³ and to enclose, also, a copy of the convention which was signed by the United States and France on June 30, 1924.

You will observe that, in preparing the draft of the convention which this Government is willing to conclude with your Government, the word "convention", wherever it appears in Articles IV, V and VI, was substituted for the word "treaty", appearing in the convention signed by the United States and France. The amendment is made so that the phraseology used in the Articles will conform to the phraseology in the Preamble. In the circumstances, it is hoped that the proposed draft is sufficiently identic to comply with the wishes of your Government in the matter.

Accept [etc.]

JOSEPH C. GREW

¹ *Foreign Relations*, 1924, vol. I, p. 157.

² Convention of June 30, 1924, *ibid.*, p. 197.

³ The draft convention enclosed with this despatch is identic with the treaty signed Dec. 9, 1925, *infra*.

Treaty Series No. 759

*Convention Between the United States of America and Belgium,
Signed at Washington, December 9, 1925*⁴

The President of the United States of America and His Majesty the King of the Belgians, being desirous of avoiding any difficulties which might arise between them in connection with the laws in force in the United States on the subject of alcoholic beverages have decided to conclude a Convention for that purpose, and have appointed as their Plenipotentiaries:

The President of the United States of America: Mr. Frank B. Kellogg, Secretary of State of the United States; and

His Majesty the King of the Belgians: Baron de Cartier de Marchienne, His Majesty's Ambassador Extraordinary and Plenipotentiary to the United States of America.

Who, having communicated their full powers found in good and due form, have agreed as follows:

ARTICLE I

The High Contracting Parties respectively retain their rights and claims, without prejudice by reason of this agreement, with respect to the extent of their territorial jurisdiction.

ARTICLE II

(1) His Majesty the King of the Belgians agrees that Belgium will raise no objection to the boarding of private vessels under the Belgian flag outside the limits of territorial waters by the authorities of the United States, its territories or possessions in order that enquiries may be addressed to those on board and an examination be made of the ship's papers for the purpose of ascertaining whether the vessel or those on board are endeavoring to import or have imported alcoholic beverages into the United States, its territories or possessions in violation of the laws there in force. When such enquiries and examination show a reasonable ground for suspicion, a search of the vessel may be effected.

(2) If there is reasonable cause for belief that the vessel has committed or is committing or attempting to commit an offense against the laws of the United States, its territories or possessions prohibiting the importation of alcoholic beverages, the vessel may be seized and taken into a port of the United States, its territories or possessions for adjudication in accordance with such laws.

⁴ In English and French; French text not printed. Ratification advised by the Senate, Mar. 3, 1926; ratified by the President, Mar. 30, 1926; ratified by Belgium, Dec. 5, 1927; ratifications exchanged at Washington, Jan. 11, 1928; proclaimed by the President, Jan. 11, 1928.

(3) The rights conferred by this article shall not be exercised at a greater distance from the coast of the United States, its territories or possessions than can be traversed in one hour by the vessel suspected of endeavoring to commit the offense. In cases, however, in which the liquor is intended to be conveyed to the United States, its territories or possessions by a vessel other than the one boarded and searched, it shall be the speed of such other vessel and not the speed of the vessel boarded, which shall determine the distance from the coast at which the right under this article can be exercised.

ARTICLE III

No penalty or forfeiture under the laws of the United States shall be applicable or attach to alcoholic liquors or to vessels or persons by reason of the carriage of such liquors, when such liquors are listed as sea stores or cargo destined for a port foreign to the United States, its territories or possessions on board Belgian vessels voyaging to or from ports of the United States, or its territories or possessions or passing through the territorial waters thereof, and such carriage shall be as now provided by law with respect to the transit of such liquors through the Panama Canal, provided that such liquors shall be kept under seal continuously while the vessel on which they are carried remains within said territorial waters and that no part of such liquors shall at any time or place be unladen within the United States, its territories or possessions.

ARTICLE IV

Any claim by a Belgian vessel for compensation on the grounds that it has suffered loss or injury through the improper or unreasonable exercise of the rights conferred by Article II of this Convention or on the ground that it has not been given the benefit of Article III shall be referred for the joint consideration of two persons, one of whom shall be nominated by each of the High Contracting Parties.

Effect shall be given to the recommendations contained in any such joint report. If no joint report can be agreed upon, the claim shall be referred to an umpire selected by the two Governments; should they fail to agree on the choice of that umpire, it shall be referred to the Permanent Court of Arbitration at The Hague described in the Convention for the Pacific Settlement of International Disputes, concluded at The Hague October 18, 1907. The Arbitral Tribunal shall be constituted in accordance with Article 87 (Chapter IV) and with Article 59 (Chapter III) of the said Convention. The proceedings shall be regulated by so much of Chapter IV of the said Convention and of Chapter III thereof (special regard being had for

Articles 70 and 74, but excepting Articles 53 and 54) as the Tribunal may consider to be applicable and to be consistent with the provisions of this agreement. All sums of money which may be awarded by the Tribunal on account of any claim shall be paid within eighteen months after the date of the final award without interest and without deduction, save as hereafter specified. Each Government shall bear its own expenses. The expenses of the Tribunal shall be defrayed by a ratable deduction of the amount of the sums awarded by it, at a rate of five per cent. on such sums, or at such lower rate as may be agreed upon between the two Governments; the deficiency, if any, shall be defrayed in equal moieties by the two Governments.

ARTICLE V

This Convention shall be subject to ratification and shall remain in force for a period of one year from the date of the exchange of ratifications.

Three months before the expiration of the said period of one year, either of the High Contracting Parties may give notice of its desire to propose modifications in the terms of the Convention.

If such modifications have not been agreed upon before the expiration of the term of one year mentioned above, the Convention shall lapse.

If no notice is given on either side of the desire to propose modifications, the convention shall remain in force for another year, and so on automatically, but subject always in respect of each such period of a year to the right on either side to propose as provided above three months before its expiration modifications in the Convention, and to the provision that if such modifications are not agreed upon before the close of the period of one year, the Convention shall lapse.

ARTICLE VI

In the event that either of the High Contracting Parties shall be prevented either by judicial decision or legislative action from giving full effect to the provisions of the present Convention the said Convention shall automatically lapse, and, on such lapse or whenever this Convention shall cease to be in force, each High Contracting Party shall enjoy all the rights which it would have possessed had this Convention not been concluded.

The present Convention shall be duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Majesty the King of the Belgians in accordance with the constitutional laws of Belgium; and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof, the respective Plenipotentiaries have signed the present Convention in duplicate in the English and French languages and have thereunto affixed their seals.

Done at the city of Washington this ninth day of December, one thousand nine hundred and twenty-five.

FRANK B KELLOGG [SEAL]
BON DE CARTIER DE MARCHIENNE [SEAL]

INTEREST OF THE UNITED STATES IN GERMAN REPARATION PAYMENTS TO BELGIUM*

462.00 R 296/746 : Telegram

The Ambassador in Belgium (Phillips) to the Secretary of State

[Paraphrase]

BRUSSELS, *December 4, 1924—12 noon.*

[Received 3:48 p. m.]

118. Yesterday I called on the Minister for Foreign Affairs at his request and he explained that Belgian Government was greatly concerned over attitude of the British Treasury experts in Paris. According to the Minister it is feared that British delegates are seeking to do away with Belgian priority to German payments held by the Comptabilité Centrale de Gages at Coblenz. Allied Powers had always admitted [payment?] of army costs out of these funds. British experts now assert that Belgium is not entitled to receive priority payments from these funds held at Coblenz and must hereafter accept her proportion of payments in kind instead of in cash.

Belgian Government is anxious to be protected from extreme view of British Treasury and asks intervention of delegate of the United States in support of the Belgian equities. The Minister reminded me that the Government of the United States had from the first favored idea of Belgian priorities; that Belgium had been very sympathetic to recent American claim to right of participation in Dawes annuities to cover claims of American citizens in addition to army costs;⁶ and that Belgian Government had taken initiative in turning over to the United States 25 percent of any sums paid to Belgium even before ratification of Army Costs Agreement of May 25, 1923.⁷ The Minister said that he referred to these three points in the hope that the Department would at present time find it possible to come to Belgium's assistance and to protect her from British Treasury's ultra rigid attitude. He also referred to critical situation which

* For related correspondence, see pp. 107 ff. and vol. II, pp. 133 ff.

⁶ See *Foreign Relations, 1924*, vol. II, pp. 1 ff.

⁷ For correspondence concerning payment by Belgium, see *ibid.*, pp. 140 ff.; for text of agreement, see *ibid.*, 1923, vol. II, p. 180.

would be created here in political circles were the Government forced to abandon its just claim to priority payments; it is evident that both he and the Prime Minister are alarmed at course events have taken in Paris and foresee that there will be decided reaction against the Government in the forthcoming elections should Belgium be forced to abandon her present priorities.

Copy of this telegram sent to Logan.

PHILLIPS

462.00 R 296/746 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, January 3, 1925—9 p. m.

11. L-186 for Logan. You are referred to Ambassador Phillips' telegram of December 4, 1924, on Belgium's request for American support of her priority.

(1) The Department appreciates greatly the attitude of Belgium toward American participation in German payments and desires, of course, continued Belgian support. In principle, also, this Government desires that Belgium receive equitable treatment.

(2) The Department understands from Ambassador Phillips' telegram that Belgium desires our support of her priority. The principle of Belgian priority has already been viewed with sympathy by this Government, and, in principle, the Department is entirely willing that Belgian priority should be realized. The points on which Belgian priority has been contested, however, have not been made clear. Ambassador Phillips' telegram refers to German payments held at Coblenz. Department's view is unchanged that this Government would not wish to be considered as expressing any opinion on these funds. If Belgium desires American support on some specific point please telegraph particulars to Department.

(3) Referring to Belgian debt question raised in your L-285, December 19, 1924, 7 p. m.,⁸ question 5: The Department's general position has already been set forth in its L-142, November 7, 1924, 6 p. m.⁹ Obviously it is essential for us to maintain integrity of our position of looking to Belgium for payment. I do not see, therefore, how the United States could assert a claim to participate in German payments without implying change in Department's position. The Department appreciates, however, that as we continue to look to Belgium for payment we have a deep interest in Belgium's strength-

⁸ *Ibid.*, 1924, vol. II, p. 108.

⁹ *Ibid.*, p. 71.

ening her finances in order to be in a position better to reimburse this Government. The Department perceives no reason, therefore, why Belgium should not receive proportionately increased participation in German payments if she is unable to look to the United States for release from the obligation in question. The Department has consulted the Treasury and authorizes you to take position that Belgium should receive the percentage that would go to the United States under proposed plan if latter had accepted substitution of German liability described in Article 232 of Treaty of Versailles¹⁰ and letter of June 16, 1919.¹¹ Your support of this position must be conditioned, however, upon obtaining suitable assurances that Government of Belgium will institute appropriate negotiations for refunding of its debt to the United States¹² and that this Government will get benefit of payments made to Belgium as aforesaid.

HUGHES

462.00 R 296/843 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, January 11, 1925—7 p. m.

[Received 9:05 p. m.]

32. L-310 [from Logan]. Reference paragraph 3 your L-186, January 3. Tentative agreement provides for reimbursement Belgian war debt as follows:

"(a) As from the 1st of May 1921, 5 percent of the total sums available for reparations in any year shall be applied to the reimbursement of the Belgian war debt as defined in the last paragraph of article 232 of the Treaty of Versailles.

(b) Of the amounts so applied in any year France shall receive 46 percent, Great Britain 42 percent, and Belgium 12 percent.

(c) The amounts due under this head between 1st May, 1921 and 1st September, 1924 shall be treated as arrears in drawing up the accounts of the various powers as at the 1st of September 1924."

The 12 percent covers Belgian debt to United States. [Paraphrase.] Twelve percent is correct as compared with the percentage allotted to France and Great Britain on account of their share of the Belgian debt. [End paraphrase.] Logan.

HERRICK

¹⁰ Malloy, *Treaties*, 1910-1923, vol. III, p. 3419.

¹¹ *Foreign Relations*, 1924, vol. II, p. 66, footnote 61.

¹² See pp. 107 ff.

462.00 R 296/848 : Telegram

The Acting Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, *January 13, 1925—2 p. m.*

32. L-197 for Herrick, Kellogg and Logan.¹³ Your L-310, January 11, 7 p. m., regarding Belgian war debt.

Figures shown in enclosure No. 4 with your letter of November 20, 1924,¹⁴ indicate a percentage distribution as follows: France 46, Great Britain 39, Belgium 15. Department does not understand the apparent increase in British percentage at the expense of percentage in which we are interested and desires you to assure yourself of accuracy of computation resulting in the figures given in your L-310.

Department understands the statement that "the 12 per cent covers Belgian debt to United States" is your comment only, and does not (repeat not) appear in the agreement.

Have you obtained from Belgium the assurances as to the refunding negotiations mentioned in Department's L-186, paragraph 3?

GREW

462.00 R 296/855 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, *January 14, 1925—3 p. m.*

[Received 5:45 p. m.]

45. L-317 [from Logan].

1. Reference Department's L-197. Article 4 of agreement¹⁵ entitled "Belgian war debt" reads as follows:

"(a) As from the 1st September 1924, 5 percent of the total sum available in any year after meeting the charges for the service of the German external loan 1924 and the charges for costs of commissions; costs of United States Army of Occupation; annuity for arrears of pre 1st May 1921 army costs; prior charge for current army costs; and any other prior charges which may hereafter be agreed, shall be applied to the reimbursement of the Belgian war debt as defined in the last paragraph of article 232 of the Treaty of Versailles.

(b) The amounts so applied as in any year shall be between the powers concerned in proportion to the amount of the debts due to them respectively as at 1st May 1921. Pending the final settlement of the accounts France shall receive 46 percent, Great Britain 42 percent, and Belgium (by reason of her debt to the United States of America) 12 percent".

¹³ American representatives at the Paris Financial Conference, Jan. 7-14, 1925.

¹⁴ Not printed.

¹⁵ See agreement regarding distribution of the Dawes annuities, Jan. 14, 1925, vol. II, p. 133.

2. It will be noted from foregoing that Belgium not the United States receives 12 percent "by reason of her debt to the United States." It will also be noted that 12 percent basis only tentative and "pending the final settlement".¹⁶

3. Belgians agree that they will turn this money over to us on account of their debt to us. It will be observed from foregoing that our debt position with Belgium in no way compromised by foregoing. Confidently feel that I can make arrangements for Belgians to use this 12 percent in marks for payment account their deliveries in kind from Germany, we subsequently taking equivalent in Belgian francs, thus overcoming difficulties that might be presented by transfer committee in getting these marks across foreign exchange. Request Department cable me tentative text of letter for Belgians to send me which will meet our angle of situation. Anticipate no difficulty in having it signed. Logan.

HERRICK

462.00 R 296/855 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, January 22, 1925—8 p. m.

53. L-206 for Logan.

(1) Substance your L-317¹⁷ and L-332¹⁸ communicated to the Treasury. Latter of the opinion that arrangement suggested in third paragraph your L-317 should be accepted, it being made entirely clear however that the position of the United States as a creditor of Belgium remains unchanged. Treasury would be glad if you can arrange as you suggest for payment in Belgian francs or other currencies freely convertible into dollars in place of German marks. However, the Treasury would not desire any commitment in this respect which would release Belgium from the requirement of handing over to us German marks if that were the only way in which payment could be made.

(2) Treasury suggests that you obtain following letter from Gutt:¹⁹

"My dear Mr. Logan: I desire to confirm our understanding that the sums to be received by Belgium under Article 4 of the Agreement of January 14, 1925, by reason of the debt of Belgium to the United States of America shall be paid over to the United States by Belgium when and as received on account of the indebtedness of the Belgian Government to the United States.

¹⁶ The Belgian percentage was later increased to 14.7.

¹⁷ *Supra.*

¹⁸ Not printed.

¹⁹ Camille Gutt, Belgian assistant representative on the Reparation Commission.

My Government is prepared to take appropriate steps to that end and, having in mind your desire that payments be made in currencies freely convertible into dollars. I take pleasure to assure you that my Government will use the funds to be received under this head in marks for the payment on account of deliveries in kind to be received by Belgium from Germany and will pay to the Government of the United States the equivalent amount in Belgian francs or in currencies freely convertible into dollars.

I shall be glad if you will let me know whether the foregoing is agreeable to your Government and advise me as to any details with respect to the procedure to be followed in making these sums promptly available to the Government of the United States".

[3] Treasury suggests the following reply to be made by you

"My dear Mr. Gutt: In reply to your letter of blank regarding the payment to the United States of the sums received by Belgium under Article 4 of the agreement of January 14, 1925, I beg to inform you that my Government has instructed me to state that it will apply on account of the indebtedness of the Belgian Government to the United States the sums thus received from the Belgian Government, it being understood that the Government of the United States of course continues to look to Belgium for the payment of the entire amount of its indebtedness to the United States.

I am also directed to express my Government's appreciation of your assurances given with respect to the intention of the Belgian Government to make these payments available to the Government of the United States in Belgian francs or currencies freely convertible into dollars.

It is understood that any payment of the above account in currencies freely convertible into dollars will be credited to Belgium at the equivalent thereof in dollars at the current rate of exchange at the time of such payment. Payments may be made to the Federal Reserve Bank of New York or by deposit in the national bank of the country whose currency is used, in the name of the Federal Reserve Bank of New York for account of the Treasury of the United States, it being understood that the Federal Reserve Bank shall have the right at any time to convert into dollars the amount standing to its credit in the account."

(4) If Belgium desires any change in the foregoing draft letters, do not modify above texts without consulting Department.

(5) [Paraphrase.] For your information it is Treasury's intention to apply payments referred to against interest on the Belgian debt to the United States; upon receipt of the first payment Belgian Government will be duly advised. [End paraphrase.]

HUGHES

462.00 R 206/893 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, January 29, 1925—1 p. m.

[Received 4:46 p. m.]

88. L-339 [from Logan]. Reference Department's L-206, January 22.

1. Discussed exchange of letters [with] Gutt representing Theunis²⁰ concerning article 4 finance agreement. Gutt suggests following changes in proposed letters.

2. Gutt letter to Logan: Omit following phrases in first paragraph "on account of the indebtedness of the Belgian Government to the United States". Change last sentence same paragraph²¹ to read as follows: "I take pleasure to assure you that my Government", insert following phrase, "unless and until the transfer committee authorizes the transfer into foreign currencies of the marks received". Letter then continues to its end as originally drafted by the Department.

Logan letter to Gutt: Change first and second paragraphs to read as follows "In reply to your letter of blank regarding the payment to the United States of the sums received by Belgium under article 4 of the agreement of January 14th, 1925, I am directed to express my Government's appreciation of your assurances given with respect to the intention of the Belgian Government to make these payments available to the Government of the United States in Belgian francs or currencies freely convertible into dollars". Letter then continues to end as drafted by the Department.

3. Gutt frankly explained that the exchange of letters without the modification suggested somewhat dangerous from an internal Belgian political point of view, that as a matter of fact the distinct reference in the proposed exchange of letters to article 4 of the finance agreement of January 14th in itself constituted a practical admission that our Government was in no way committed to last paragraph of article 232 of the Treaty of Versailles and the connected agreement signed by Wilson, Lloyd George and Clemenceau²² (which Congress never accepted), [that] we therefore had what we wanted with the additional advantage that such an exchange of letters with the modifications he proposed would not cause internal Belgian public clamor concerning the foregoing point.

Confidentially hope Department will cable its approval of these proposed changes in the text thus permitting the immediate exchange of these two letters.

²⁰ Belgian Prime Minister.

²¹ i. e., second paragraph of draft letter as communicated by Department, *supra*.

²² S. Doc. 413, 66th Cong., 3d sess.

4. The total priority accorded the Belgian war debt under article 4 of the finance agreement for the first Dawes annuity, viz., September 1st, 1924, to August 31st, 1925, is 36,000,000 gold marks. Twelve percent of the foregoing to be paid to Belgium "by reason of her debt to United States of America" is 4,300,000 gold marks to be made available to Belgium during the 7 months beginning February 1st and ending August 31, 1925, at a monthly average of slightly over 600,000 gold marks or in other words under proposed exchange of letters Belgium should deposit in the Federal Reserve Bank on foreign accounts approximately \$125,000 monthly from March 1st to September 1st, 1925.

We have checked the foregoing figures under paragraph 3 of article 4 and find them correct. Logan.

HERRICK

462.00 R 296/893 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, February 7, 1925—4 p. m.

78. For Logan. L-213.

(1) Your L-339 was communicated to the Treasury which, in view of the Belgian attitude respecting pre-Armistice debt, considers it important that in connection with the proposed exchange of letters it should be made clear that the position of the United States as to the Belgian debt is in no way changed.

(2) Treasury suggests that you address the following letter to Gutt:²³

"Pursuant to our conversation I communicated to my Government your suggestions as to the modification of the draft letters and your reasons therefor which we discussed, also your statement that it would be unnecessary to refer in the letters to the position taken by the Government of the United States with respect to pre-Armistice advances inasmuch as the distinct reference in the proposed letters to Article 4 of the agreement of January 14, 1925, constitutes a practical admission that the United States is in no way committed to the modification of this position. I am authorized to inform you that, if it be clearly understood that the United States does not in any way modify its position in the matter, my Government has no objection to the modifications which you proposed in the draft letters."

(3) On the foregoing basis you are authorized to exchange with Gutt the proposed letters containing the modifications set forth in your L-339, inserting the phrase "by reason of the debt of Belgium to

²³ Transmitted by Mr. Logan to Mr. Gutt on February 16, with "the" before "draft," 1. 2, changed to "your."

the United States of America" after the date "January 14, 1925," and before the words "I am directed et cetera" in the first paragraph of your letter to Gutt so as to correspond to his letter.

HUGHES

462.00 R 296/941

*The Unofficial Representative on the Reparation Commission (Logan)
to the Secretary of State*

PARIS, 17 February, 1925.

[Received February 25.]

MY DEAR MR. SECRETARY: With reference to my L-353 of February 17th²⁴ and Department's L-213 of February 7th and preceding interchange of cables on the subject of Article Four of the Agreement of January 14th, 1925, under which Belgium receives certain moneys from Germany, by reason of the debt of Belgium to the United States of America, and the methods by which these sums are to be paid over to the United States by Belgium when and as received.

I enclose herewith the original of Mr. Gutt's letter No. AP: 3/15 A/80920 addressed to me under date of February 17th, together with copies of my letters to Mr. Gutt of February 16th, 1925 and February 18th, 1925.^{24a} (Latter letter dated February 18th though actually delivered February 17th)

It will be noted that the enclosures are drafted in the terms desired by the Treasury Department.

I venture the suggestion that this letter and its enclosures be referred to the Treasury Department for appropriate collection of the sums due from Belgium. In this connection, I invite attention that "pending the final settlement of the accounts" or in other words, pending any correction of the percentages as between France, Great Britain and Belgium "by reason of her debt to us" and as from February 1, 1925 to August 31st, 1925, Belgium is entitled to receive on this account from the Dawes Annuities, 610,000 gold marks per month.

I will promptly notify the Department when and if it is decided that Belgium is to receive any increased percentage "by reason of her debt to us". This office will also inform the Department of any changes in the monthly rate as starting from September 1, 1925, or the date of the commencement of the second Dawes Annuity year. In the meantime, the 610,000 gold mark figure stands for each of the seven months contemplated by the inclusive dates hereinbefore given.

In accordance with my understanding, the question of collection is now transferred to the Treasury Department for the 610,000 gold

²⁴ Not printed.

^{24a} Letters to Mr. Gutt not printed.

marks per month during the period in question, and that the only further intervention of this office will be a possible notification of the change in the amount after final settlement is reached and the periodical notification of the sums accruing in the second and subsequent Dawes Annuity years.

Faithfully yours,

JAMES A. LOGAN, Jr.

[Enclosure]

The Belgian Assistant Representative on the Reparation Commission (Gutt) to the American Unofficial Representative on the Reparation Commission (Logan)

No. AP: 3/15 A/80920

PARIS, 17 February, 1925.

MY DEAR MR. LOGAN: I desire to confirm our understanding that the sums to be received by Belgium under Article Four of the Agreement of January 14, 1925, by reason of the debt of Belgium to the United States of America, shall be paid over to the United States by Belgium when and as received. My Government is prepared to take appropriate steps to that end and, having in mind your desire that payments be made in currencies freely convertible into dollars, I take pleasure to assure you that my Government, unless and until the Transfer Committee authorizes the transfer into foreign currencies of the marks received, will use the funds to be received under this head in marks for the payment on account of the deliveries in kind to be received by Belgium from Germany and will pay to the United States Government the equivalent amount in Belgian Francs or in currencies freely convertible into dollars.

I shall be glad if you will let me know whether the foregoing is agreeable to your Government and advise me as to any details with respect to the procedure to be followed in making these sums promptly available to the Government of the United States.

Faithfully yours,

GUTT

462.00 R 296/969 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, March 31, 1925—11 a. m.

140. L-233 for Hill.²⁵ Your L-362, March 12, 5 p. m.²⁶

Treasury regards the amount of Belgium's pre-armistice debt to the United States as a question solely between the two governments

²⁵ Ralph W. S. Hill, acting unofficial representative on the Reparation Commission.

²⁶ Not printed.

and states that while Germany's obligation to make payments on account of Belgium war debts is governed by Article 232,²⁷ the determination by the Reparation Commission of the amount of Belgium's debt to the United States does not fix the amount due from Belgium to the United States.

Treasury agrees that United States cannot properly object to action of the Commission under Article 232 but desires that the position of the United States be made clear to the Belgian Government that in accepting from Belgium payments made to the latter by Germany under Article 232 of the Treaty and Article 4 of the Agreement of January 14, the United States is in no way committed to the decision of the Reparation Commission as to the amount of the debt owed by Belgium to the United States.

The Treasury believes that you should take appropriate steps to inform the Belgian Government through Gutt of its position as set forth above and you are authorized in your discretion so to do.

KELLOGG

462.00 R 296/976 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, April 2, 1925—11 a. m.

[Received April 2—9 a. m.]

208. L-376 [from Hill]. Department's L-233. Communicated with Gutt who is leaving today for a brief vacation. He stated he understood perfectly position of Treasury. In order that there could be no possible misunderstanding I supplemented conversation by letter embodying statement in second paragraph your telegram commencing "in accepting from Belgium et cetera." Mailing copy of my letter.²⁸ Hill.

HERRICK

²⁷ Of the Treaty of Versailles.

²⁸ Not printed.

BRAZIL

DISAPPROVAL BY THE DEPARTMENT OF STATE OF PROPOSED LOANS FROM AMERICAN BANKERS TO THE STATE OF SÃO PAULO

832.51 Sa 6/26

Memorandum by Mr. Stokeley W. Morgan, of the Division of Latin American Affairs, of a Conversation With Mr. Earle Bailie,¹ August 18, 1925

Mr. Bailie stated that his firm had been approached by the Paulista Institute for the Permanent Defense of Coffee of São Paulo for a loan which it was thought would be in the neighborhood of \$15,000,000. The Institute contemplates using the proceeds to (1) found a bank for financing coffee growers; (2) compile statistics on coffee production; (3) fight the coffee plague, and (4) regularize the price of coffee.

Mr. Bailie said that after his telephone conversation with Mr. White² on July 30, (see attached memorandum)³ he cabled his representative in São Paulo that he thought the Department would not object to a loan the proceeds of which would be used for any legitimate business other than the valorization of coffee, to which Mr. Bailie's representative replied inquiring what operations would be objected to by the Department on the plea of valorization, adding that he believed the Institute would be willing to consider any reasonable restrictions.

Mr. Bailie stated that he thought the Institute would be willing to obligate itself not to use the proceeds of the loan directly or indirectly to buy or store coffee and asked whether the Department would approve of a loan on those conditions.

I pointed out that this restriction on the activities of the Institute would not prevent the bank which was to be founded with the proceeds of the loan from carrying on the valorization program. Mr. Bailie agreed that this was the case but inquired whether the Department wished to go so far as to refuse its approval of money loaned for the ordinary financing of crops, which would be all the bank could be said to be undertaking. In this case, he pointed out, the Department would be practically refusing to approve any loan

¹ Of J. & W. Seligman Co., New York, N. Y.

² Francis White, chief of the Division of Latin American Affairs.

³ Not printed.

to the State of São Paulo on the grounds that the money might indirectly be used to keep up the price of coffee.

Mr. Bailie wished it distinctly understood that his firm was not urging that this loan be approved but would be glad to complete the transaction if it felt that it had the complete approval of the Department. I informed him that I would lay the matter before the Secretary.

It seems to me that the question hinges on whether the financing of crops by the bank will result in maintaining an artificially high price or merely a steady normal price.

MORGAN

832.51 Sa 6/26

The Secretary of State to Mr. Earle Bailie

WASHINGTON, August 21, 1925.

SIR: With reference to your visit to the Department on August 19 [*sic*], during which you inquired whether the Department would have any objection to a projected loan by your firm to the Paulista Institute for the Permanent Defense of Coffee of São Paulo, I beg to say in reply that in the light of the information before it, the Department cannot view this financing with favor.

I am [etc.]

For the Secretary of State:

JOSEPH C. GREW

Under Secretary

832.51 Sa 6/32

Speyer & Co. to the Secretary of State

NEW YORK, November 4, 1925.

[Received November 5.]

SIR: We are now in negotiation with the State of São Paulo, Brazil, covering a Loan for an amount between \$25,000,000 and \$35,000,000, to be issued under a law to be passed by the Congress of the State of São Paulo. The Bonds are to carry interest at a rate still to be determined (which will be either 7½% or 8% per annum) and will be in the form of Twenty Year or Twenty-five Year Bonds, to be redeemable by means of a Sinking Fund sufficient to retire all of the Bonds at or before maturity. The Bonds will be the direct external obligation of the State of São Paulo, and will be payable in United States gold, free from all Brazilian taxes, and

will be secured by a first charge on the railway tax of One Milreis Gold per bag of coffee transported across the State of São Paulo.

We are advised by cable that the President and State Secretary of São Paulo have declared as follows: First, that the proceeds of the Loan will be deposited in the São Paulo banks to finance agricultural and commercial interests; second, that the purpose of the Loan is not for coffee valorization. The President and State Secretary further advise that the policy of the Defense of Coffee Institute is to stop speculation and not to valorize coffee.

We trust that the Department will find no objection to the flotation of this proposed Loan in the American market, and we shall be obliged if you will so advise us.

Respectfully yours,

SPEYER & Co.

832.51 Sa 6/82

The Secretary of State to Speyer & Co.

WASHINGTON, November 6, 1925.

SIRS: I beg to acknowledge the receipt of your letter of November 4, 1925, regarding your interest in a proposed loan to the State of São Paulo, Brazil, in the amount of from \$25,000,000 to \$35,000,000, for the purposes and under the terms set forth therein, and in reply thereto to state that in view of the policy of coffee valorization followed by the authorities of São Paulo, this Department is unable to view the proposed financing with favor at this time.

I am [etc.]

For the Secretary of State:

LELAND HARRISON

Assistant Secretary

BULGARIA

CONTINUANCE OF AMERICAN CAPITULATORY RIGHTS IN BULGARIA

711.743/21

The Minister in Bulgaria (Wilson) to the Secretary of State

No. 503

SOFIA, July 1, 1924.

[Received July 14.]

SIR: I have the honor to report that the French Minister called on me yesterday to inquire whether the exchange of the ratifications of the Bulgarian-American extradition treaty¹ was to be taken as an indication that the United States has definitely relinquished in Bulgaria its capitulatory rights, which by article 175 of the Treaty of Neuilly² were specifically retained by all countries signatory to that instrument.

Although since I have been in charge of this mission I have on various occasions referred to the capitulations as governing certain rights and privileges of Americans in Bulgaria, I have never received from the Department any definite expression as to its point of view of the matter. In looking over the past records of the Legation, I cannot find that the United States ever relinquished its capitulatory rights, and in fact at times seems to have attached considerable importance to their maintenance, while never actually invoking them.

Apparently those countries which have ratified the Treaty of Neuilly intend to maintain their capitulatory rights, and it is on the strength of these rights that the British, French, and probably the Italian Governments are going to insist upon the free customs entry of articles for their respective consuls. (Legation's telegram No. 21, of June 30, 1924).³

In view of the above inquiry of the French Minister, and possibly like inquiries from the Bulgarian Government, I have the honor to request that the Legation may be informed as to the position of the United States Government on the question of capitulatory rights in Bulgaria as affecting American interests in that country.

I have [etc.]

CHARLES S. WILSON

¹ Treaty of Mar. 19, 1924, *Foreign Relations*, 1924, vol. 1, p. 323.

² S. Doc. 7, 67th Cong., 1st sess., p. 47.

³ Not printed.

711.743/21

The Secretary of State to the Minister in Bulgaria (Wilson)

No. 141

WASHINGTON, September 23, 1925.

SIR: The Department refers to your despatch No. 503, of July 1, 1924, regarding an inquiry by the French Minister at Sofia as to whether the exchange of the ratifications of the Extradition Treaty between the United States and Bulgaria was to be taken as an indication of the relinquishment by this country of its capitulatory rights in Bulgaria. You state that apparently the countries which have ratified the Treaty of Neuilly intend to maintain their capitulatory rights and that upon examining the past records of your Legation you have been unable to find that the United States has relinquished its capitulatory rights in Bulgaria.

The Department does not perceive that there is any direct relation between the capitulatory rights enjoyed by the United States in Bulgaria and the provisions of the Extradition Treaty between the two countries. As noted in Moore's *Digest of International Law*, Volume IV, page 259, the United States has not generally followed the practice of certain Powers in seeking to obtain the recovery of fugitive criminals through the action of their ministers and consuls in countries in which such ministers and consuls are by treaty invested with judicial powers. This country has, on the other hand, in two cases, that of the Ottoman Empire, in 1874,⁴ and Japan, in 1886,⁵ entered into extradition treaties with countries in which citizens of the United States were entitled to capitulatory privileges. "The Government of the United States," Mr. Moore observes, "has been induced to take this position not only by reason of doubts as to the applicability of the extraterritorial stipulations to extradition, but also because the statutes passed to carry such stipulations into effect confer upon the ministers and consuls no authority for that purpose."

Inasmuch as the United States has not ratified the Treaty of Neuilly, it is of course not in a position to rely directly upon the provisions of that Treaty as a basis for any claim which it may care to assert in regard to the continued enjoyment of capitulatory rights in Bulgaria. On the other hand, it does not appear that this country has at any time relinquished its capitulatory rights in Bulgaria and, accordingly, those rights may be said to be still subsistent. For your confidential information and guidance it may be added that the Department's interest in this matter is that of assuring to American nationals in Bulgaria treatment as favorable as that which may be accorded to nationals of the most favored nation. The Department

⁴ Malloy, *Treaties*, 1776-1909, vol. II, p. 1341.

⁵ *Ibid.*, vol. I, p. 1025.

would therefore, under present circumstances, be disposed to press for rights of a capitulatory character only in the event that other Powers advance claims by virtue of the capitulations. Your comments on the present situation and on the attitude of the various capitulatory Powers would be appreciated.

I am [etc.]

FRANK B. KELLOGG

711.743/28

The Chargé in Bulgaria (Cable) to the Secretary of State

No. 743

SOFIA, December 6, 1925.

[Received December 24.]

SIR: I have the honor to acknowledge the receipt of the Department's Instruction No. 141 of September 23, 1925, relative to the attitude of the various capitulatory [*sic*] powers in Bulgaria.

Inasmuch as the Capitulations in Bulgaria are a legacy of the Ottoman Empire and as the historical point of view arises even to-day, it appears best to take up the case from its inception.

The Treaty of Berlin of 1878,⁶ which marks the first real step in the independence of Bulgaria, stipulates that the Capitulations in force under Turkish domination shall remain in vigor. (Art. 8) Of necessity the signatories to the Treaty of Berlin were the nations to enjoy the rights exercised thereunder. However, other nations who enjoyed capitulatory rights in the Ottoman Empire claimed them also in Bulgaria and obtained them. (Holland, Spain, etc.) The Bulgarians claim that by actual right only the signatories of the Treaty of Berlin have a right to Capitulations in Bulgaria, that other nations have acquired that position during the formative period of the country, and only enjoy the privileges due to the complaisance of the signatories. In reality the Capitulations are a charge imposed on Bulgaria by the Great Powers with the original accord of the Sublime Porte. From the terms of the Treaty of Berlin it would appear that for Bulgaria to receive modifications in the Capitulations it would take unanimous action on the part of the signatories. Serbia, by various conventions, agreements and treaties has accomplished this very end, inasmuch as the various nations interested had some definite end to gain.

In 1891 the French Government invoked its Capitulatory right when the Bulgarian Government attempted to expel a Mr. Chadbourne, a French correspondent who had criticized Bulgarian politics. Carnot's Government, de Freycinet was Premier at the time, broke diplomatic relations with Bulgaria and recalled Lanel, the French

⁶ *British and Foreign State Papers, 1877-1878, vol. LXIX, p. 749.*

Chargé d'Affaires. Placed in this position there was nothing for Ferdinand to do but knuckle under. France was given satisfaction and the incident was considered closed. However, it showed both the attitude of the Bulgarian Government, and the possible use that could be made of the Capitulations, both as a threat or as a barter, for the Bulgarians were ready to exchange anything against their removal at that time.

Beginning with 1892 Bulgaria began, by treaty and agreement, to ameliorate her position. Almost invariably such steps in advance as she consummated were solely on the judicial side, and dealt mostly with civil law. Italy, Germany and Austria all withdrew the necessity of the presence of a consular representative in case of civil action. Curiously enough, Great Britain which had plead[ed] the cause of Bulgaria at Berlin never acquiesced to this modification.

By degrees practically all cases to be tried before a civil court were allowed to pass without challenge by the Capitulatory nations. Certain agreements were entered into to protect nationals undergoing bankruptcy or similar commercial misadventures in Bulgaria.

By degrees Bulgaria came to believe herself free from the onus of the Capitulations and as they were not invoked, as far as I can discover, from 1908, when she became a sovereign state, and [to] the end of the war she, possibly, had every reason to think that they were considered non-existent.

However, Article 175 of the Treaty of Neuilly clearly stipulates that the Capitulatory rights are to be considered as still in existence.

In 1924 and again in 1925 Great Britain, France and Italy acting in consort [*concert?*] brought up the question of the extraterritoriality of their consuls based on the Capitulations. I must state, that from conversation with the representatives of these powers, I am inclined to believe that the representations made were rather to obtain preferential commercial agreements as against relinquishment of the rights enjoyed, and if the point could be definitely forced home it was a point definitely gained.

After the explosion in the Cathedral on April 16th, 1925, the situation respecting the capitulations became a trifle more involved. Léger, a Frenchman, and his wife were arrested for complicity in the affair. They had rented rooms to some of the conspirators and I believe personally that Léger knew that he was without the law. At all hazards [*sic*], the fact remains that, they were tried by a military tribunal and both were found guilty. Léger was condemned to death and his wife to life-imprisonment.

The French Chargé did not hear till several days after his arrest that Léger was in prison. He contented himself at that time with furnishing the man with counsel and seeing that Madame Léger receive[d] some sort of preferential treatment from the prison au-

thorities. However, after the two were sentenced, the French Minister who had newly arrived received instructions to request clemency of the King for Léger. The French Minister tells me that in making the request he pointed out that in other countries the crime of which the condemned was accused was not punishable by death, and that should the Government persist in its attitude it might be necessary to invoke the Capitulations. He found a ready listener in the King, who at all times is against capital punishment, and the sentence was commuted to life imprisonment; which was satisfactory to all concerned.

Inasmuch as the trial had caused a certain amount of comment, seeing that it comprised [*sic*] foreigners, the British Legation requested what its attitude should be under similar circumstances of the Home authorities. The reply was to the effect that in all cases of a criminal nature as soon as the Legation learned of the arrest all possible facilities should be arranged for the detained person. It is to be understood that this refers primarily to political crime. Later, as the case developed would be time enough to determine on a definite line of action.

The attitude of the Ministry for Foreign Affairs is that the Capitulations no longer exist. They state that since the Capitulations have been abolished in Turkey they can no longer be invoked in Bulgaria, as they were merely a relic of Ottoman rule. When faced with Article 175 of the Treaty of Neuilly, to which the British Minister once called their attention, they assume a calmer attitude. There is no doubt that their existence is a thorn in the flesh, and that present Bulgaria would do much to remove them.

At this moment the attitude of the three Great Powers holding capitulatory rights under the terms of the Treaty of Neuilly is about as follows:

Great Britain has withdrawn rights in Civil cases, but have made definite statements concerning their rights in Criminal cases. Will use Capitulations as a lever to obtain preferences in proposed Commercial Treaty.

France has adopted a similar attitude, perhaps a trifle more conciliatory, but have made it clear that Capitulations certainly exist in Criminal cases. It is to be noted that all Roman Catholics in Bulgaria are supposedly under the protection of the French. This dates from the time of Francis the First, and it appears unlikely that it would be invoked.

Italy joined Britain and France concerning the Consular question pointed out in the foregoing. Their Chargé (Italy's) tells me that he does not believe that his country would invoke the Capitulations except in a flagrant miscarriage of justice in a criminal case. I believe, inasmuch as Italy is bending every effort toward capturing

the trade of Bulgaria, that she prefers to use the Capitulations to gain some end and that eventually she will barter them away against some Treaty or Agreement.

At the present moment American citizens in Bulgaria receive the same treatment as that accorded to the nationals of other countries. Moreover, such Americans as reside in this country are unlikely to run afoul of the law in criminal matters. Their litigation, such as it is, would come before a civil court.

There is one side of the question that must be considered attentively. In a country as prone to political disturbance as Bulgaria it would appear unwise to renounce capitulatory rights in cases involving political crime. Even though the Government at Washington might not desire to institute a Consular Court to examine a case, nevertheless as shown in the case of Léger, the remittance [*sic*] of the existence of the Capitulations might have a salutary effect. It would appear to be the best policy to hold the capitulatory rights of the United States in reserve against either the possible defense of a national or to use for some commercial preference.

I have [etc.]

PHILANDER L. CABLE

CANADA

EXTRADITION CONVENTION BETWEEN THE UNITED STATES AND CANADA APPLYING TO OFFENSES AGAINST LAWS FOR THE SUPPRESSION OF TRAFFIC IN NARCOTICS¹

Treaty Series No. 719

*Convention Between the United States of America and Great Britain in Respect of the Dominion of Canada, Signed at Washington, January 8, 1925*²

The President of the United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, in respect of the Dominion of Canada, being desirous of enlarging the list of crimes on account of which extradition may be granted with regard to certain offences committed in the United States or in the Dominion of Canada under the Conventions concluded between the United States and Great Britain on the 12th July, 1889,³ and the 13th December, 1900,⁴ and the 12th April, 1905,⁵ and the 15th May, 1922,⁶ with a view to the better administration of justice and the prevention of crime, have resolved to conclude a Supplementary Convention for this purpose, and have appointed as their Plenipotentiaries, to wit:

The President of the United States of America: Charles Evans Hughes, Secretary of State of the United States of America, and

His Britannic Majesty: The Honorable Ernest Lapointe, Minister of Justice to the Dominion of Canada;

Who, after having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following Articles:

ARTICLE I

The following crimes are, subject to the provision contained in Article II, hereof, added to the list of crimes numbered 1 to 10 in

¹ This convention resulted from a draft extradition treaty submitted by the representatives of the United States to their Canadian colleagues at the Ottawa Conference of 1923; *Foreign Relations*, 1923, vol. I, pp. 228 ff.

² Ratification advised by the Senate, Jan. 27, 1925; ratified by the President, Mar. 2, 1925; ratified by Great Britain in respect of Canada, May 7, 1925; ratifications exchanged at Washington, July 17, 1925; proclaimed by the President, July 17, 1925.

³ Malloy, *Treaties*, 1776-1909, vol. I, p. 740.

⁴ *Foreign Relations*, 1901, p. 222.

⁵ *Ibid.*, 1907, pt. 1, p. 576.

⁶ *Ibid.*, 1922, vol. II, p. 406.

the 1st Article of the said Convention of the 12th July, 1889, and to the list of crimes numbered 11 to 13 in Article I of the Supplementary Convention concluded between the United States and Great Britain on the 13th December, 1900, and to the list of crimes numbered 14 and 15 in Article I of the Supplementary Convention concluded between the United States and Great Britain on the 12th April, 1905, and to the list of crimes numbered 16 in Article I of the Supplementary Convention concluded between the United States and Great Britain on the 15th May, 1922, that is to say:

17. Crimes and offences against the laws for the suppression of the traffic in narcotics.

ARTICLE II

The operation of the present Convention is confined to cases in which the offences mentioned in the preceding Article having been committed in the United States or in the Dominion of Canada, the person charged with the offence is found in the Dominion of Canada or in the United States respectively.

ARTICLE III

The present Convention shall be considered as an integral part of the said Extradition Conventions of the 12th July, 1889, and the 13th December, 1900, and the 12th April, 1905, and the 15th May, 1922, and the 1st Article of the said Convention of the 12th July, 1889, shall be read as if the lists of crimes therein contained had originally comprised the additional crimes specified and numbered 17 in the 1st Article of the present Convention subject to the provision contained in Article II.

The present Convention shall be ratified, and the ratifications shall be exchanged either at Washington or Ottawa as soon as possible.

It shall come into force ten days after its publication in conformity with the laws of the High Contracting Parties, and it shall continue and terminate in the same manner as the said Convention of the 12th July, 1889.

IN TESTIMONY WHEREOF, the respective plenipotentiaries have signed the present Supplementary Convention and have affixed their seals thereto.

DONE in duplicate at the City of Washington this eighth day of January, in the year one thousand nine hundred and twenty-five.

[SEAL]	CHARLES EVANS HUGHES
[SEAL]	ERNEST LAPOINTE

BOUNDARY TREATY BETWEEN THE UNITED STATES AND CANADA

Treaty Series No. 720

*Treaty Between the United States of America and Great Britain in Respect of the Dominion of Canada, Signed at Washington, February 24, 1925*¹

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, in respect of the Dominion of Canada, desiring to define more accurately at certain points and to complete the international boundary between the United States and Canada and to maintain the demarcation of that boundary, have resolved to conclude a treaty for these purposes, and to that end have appointed as their respective plenipotentiaries:

The President of the United States of America: Charles Evans Hughes, Secretary of State of the United States; and

His Britannic Majesty, in respect of the Dominion of Canada: The Honorable Ernest Lapointe, K. C., a member of His Majesty's Privy Council for Canada and Minister of Justice in the Government of that Dominion;

Who, after having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:

ARTICLE I

Whereas Article V of the Treaty concerning the boundary between the United States and the Dominion of Canada concluded on April 11, 1908, between the United States and Great Britain,^{2a} provided for the survey and demarcation of the international boundary line between the United States and the Dominion of Canada from the mouth of Pigeon River, at the western shore of Lake Superior, to the northwesternmost point of Lake of the Woods, as defined by the treaties concluded between the United States and Great Britain on September 3, 1783, and August 9, 1842;^{2b}

And whereas Article VI of the said Treaty concluded on April 11, 1908, provided for the relocation and repair of lost or damaged monuments and for the establishment of additional monuments and boundary marks along the course of the international boundary between the United States and the Dominion of Canada from the

¹ Ratification advised by the Senate, Mar. 12, 1925; ratified by the President, Apr. 9, 1925; ratified by Great Britain in respect of Canada, May 30, 1925; ratifications exchanged at Washington, July 17, 1925; proclaimed by the President, July 17, 1925.

^{2a} *Foreign Relations*, 1908, p. 384.

^{2b} Miller, *Treaties*, vol. 2, p. 151, and vol. 4, p. 363.

northwesternmost point of Lake of the Woods to the summit of the Rocky Mountains, as established under existing treaties and surveyed, charted, and monumented by the Joint Commission appointed for that purpose by joint action of the Contracting Parties in 1872;

And whereas it has been found by surveys executed under the direction of the Commissioners appointed pursuant to the said Treaty of April 11, 1908, that the boundary line between the United States and the Dominion of Canada from the mouth of Pigeon River, at the western shore of Lake Superior to the northwesternmost point of Lake of the Woods as defined by the treaties concluded on September 3, 1783, and August 9, 1842, is intersected by the boundary from the northwesternmost point of Lake of the Woods to the summit of the Rocky Mountains as established under existing treaties and surveyed, charted, and monumented by the Joint Commission appointed for that purpose in 1872, at five points in Lake of the Woods adjacent to and directly south of the said northwesternmost point, and that there are two small areas of United States waters in Lake of the Woods, comprising a total area of two and one-half acres, entirely surrounded by Canadian waters;

And whereas no permanent monuments were ever erected on these boundary lines north of the most southerly of these points of intersection;

The Contracting Parties, in order to provide for a more practical definition of the boundary between the United States and the Dominion of Canada in Lake of the Woods, hereby agree that this most southerly point of intersection, being in latitude $49^{\circ} 23' 04''.49$ north, and longitude $95^{\circ} 09' 11''.61$ west, shall be the terminus of the boundary line heretofore referred to as the international boundary line between the United States and the Dominion of Canada from the mouth of Pigeon River, at the western shore of Lake Superior, to the northwesternmost point of Lake of the Woods and the initial point of the boundary line heretofore referred to as the international boundary between the United States and the Dominion of Canada from the northwesternmost point of Lake of the Woods to the summit of the Rocky Mountains, in lieu of the said northwesternmost point.

The aforesaid most southerly point shall be located and monumented by the Commissioners appointed under the said Treaty of April 11, 1908, and shall be marked by them on the chart or charts prepared in accordance with the provisions of Articles V and VI of the said Treaty, and a detailed account of the work done by the Commissioners in locating said point, together with a description of the character and location of the several monuments erected, shall

be included in the report or reports prepared pursuant to the said Articles.

The point so defined and monumented shall be taken and deemed to be the terminus of the boundary line heretofore referred to as the international boundary line between the United States and the Dominion of Canada, from the mouth of Pigeon River, at the western shore of Lake Superior, to the northwesternmost point of Lake of the Woods and the initial point of the boundary line heretofore referred to as the international boundary between the United States and the Dominion of Canada from the northwesternmost point of Lake of the Woods to the summit of the Rocky Mountains.

ARTICLE II

Whereas Article VI of the Treaty concerning the boundary between the United States and the Dominion of Canada concluded on April 11, 1908, between the United States and Great Britain, provided for the relocation and repair of lost or damaged monuments and for the establishment of additional monuments and boundary marks along the courses of the international boundary between the United States and the Dominion of Canada from the northwesternmost point of Lake of the Woods south to the 49th parallel of north latitude and thence westward along said parallel of latitude to the summit of the Rocky Mountains, as established under existing treaties and surveyed, charted, and monumented by the Joint Commission appointed for that purpose by joint action of the Contracting Parties in 1872;

And whereas Article VI of the said Treaty concluded on April 11, 1908, further provides that in carrying out the provisions of that article the agreement stated in the protocol of the final meeting of the said Joint Commission, dated May 29, 1876, should be observed, by which protocol it was agreed that in the intervals between the monuments along the 49th parallel of north latitude the boundary line has the curvature of a parallel of 49° north latitude;

And whereas the Commissioners appointed and acting under the provisions of Article VI of the said Treaty of 1908 have marked the boundary line wherever necessary in the intervals between the original monuments established by the said Joint Commission, appointed in 1872, in accordance with the agreement stated in the Protocol of the final meeting, dated May 29, 1876, of the Joint Commission aforesaid, and as set forth in Article VI of the Treaty of 1908, by placing intermediate monuments on lines joining the original monuments, which have in each case the curvature of a parallel of 49° north latitude;

And whereas the average distance between adjacent monuments as thus established or reestablished along the 49th parallel of north

latitude from Lake of the Woods to the summit of the Rocky Mountains by the Commissioners acting under Article VI of the Treaty of 1908 is one and one-third miles and therefore the deviation of the curve of the 49th parallel from a straight or right line joining adjacent monuments is, for this average distance between monuments, only one-third of a foot, and in no case does the actual deviation exceed one and eight-tenths feet;

And whereas it is impracticable to determine the course of a line having the curvature of a parallel of 49° north latitude on the ground between the adjacent monuments which have been established or reestablished by the Commissioners and the demarcation of the boundary would be more thoroughly effective if the line between adjacent monuments be defined as a straight or right line;

And whereas it is desirable that the boundary at any point between adjacent monuments may be conveniently ascertainable on the ground, the Contracting Parties, in order to complete and render thoroughly effective the demarcation of the boundary between the United States and the Dominion of Canada from the northwesternmost point of Lake of the Woods to the summit of the Rocky Mountains, hereby agree that the line heretofore referred to as the international boundary between the United States and the Dominion of Canada from the northwesternmost point of Lake of the Woods to the summit of the Rocky Mountains shall be defined as consisting of a series of right or straight lines joining adjacent monuments as now established or reestablished and as now laid down on charts by the Commissioners acting under Article VI of the Treaty of 1908, in lieu of the definition set forth in the agreement of the aforesaid Joint Commissioners, dated May 29, 1876, and quoted in Article VI of the said Treaty of 1908, that in the intervals between the monuments the line has the curvature of the parallel of 49° north latitude.

ARTICLE III

Whereas the Treaty concluded on May 21, 1910, between the United States and Great Britain,^{7c} defined the international boundary line between the United States and the Dominion of Canada from a point in Passamaquoddy Bay lying between Treat Island and Friar Head to the middle of Grand Manan Channel and provided that the location of the line so defined should be laid down and marked by the Commissioners appointed under the Treaty of April 11, 1908;

And whereas it has been found by the surveys executed pursuant to the said Treaty of May 21, 1910, that the terminus of the boundary line defined by said Treaty at the middle of Grand Manan Channel

^{7c} *Foreign Relations*, 1910, p. 540.

is less than three nautical miles distant both from the shore line of Grand Manan Island in the Dominion of Canada and from the shore line of the State of Maine in the United States, and that there is a small zone of waters of controvertible jurisdiction in Grand Manan Channel between said terminus and the High Seas;

The Contracting Parties, in order completely to define the boundary line between the United States and the Dominion of Canada in the Grand Manan Channel, hereby agree that an additional course shall be extended from the terminus of the boundary line defined by the said Treaty of May 21, 1910, south $34^{\circ} 42'$ west, for a distance of two thousand three hundred eighty-three (2,383) meters, through the middle of Grand Manan Channel, to the High Seas.

The course so defined shall be located and marked by the Commissioners appointed under the Treaty of April 11, 1908, and shall be laid down by them on the chart or charts adopted in accordance with the provisions of Article I of the said Treaty, and a detailed account of the work done by the Commissioners in locating and marking said line, together with a description of the several monuments erected, shall be included in the report or reports prepared pursuant to Article I of the Treaty of April 11, 1908.

The course so defined and laid down shall be taken and deemed to be the boundary line between the United States and the Dominion of Canada in Grand Manan Channel from the terminus of the boundary line as defined by the Treaty of May 21, 1910, to the High Seas.

ARTICLE IV

Whereas, pursuant to existing treaties between the United States and Great Britain, a survey and effective demarcation of the boundary line between the United States and the Dominion of Canada through the Great Lakes and the St. Lawrence River and through the Straits of Georgia, Haro, and Juan de Fuca from the 49th Parallel to the Pacific Ocean and between Alaska and the Dominion of Canada from the Arctic Ocean to Mount St. Elias have been made and the signed joint maps and reports in respect thereto have been filed with the two governments;

And whereas a survey and effective demarcation of the boundary line between the United States and the Dominion of Canada from the Gulf of Georgia to Lake Superior and from the St. Lawrence River to the Atlantic Ocean and between Alaska and the Dominion of Canada from Mount St. Elias to Cape Muzon are nearing completion;

And whereas boundary monuments deteriorate and at times are destroyed or damaged; and boundary vistas become closed by the growth of timber;

And whereas changing conditions require from time to time that the boundary be marked more precisely and plainly by the establishment of additional monuments or the relocation of existing monuments;

The Contracting Parties, in order to provide for the maintenance of an effective boundary line between the United States and the Dominion of Canada and between Alaska and the Dominion of Canada, as established or to be established and for the determination of the location of any point thereof, which may become necessary in the settlement of any question that may arise between the two governments hereby agree that the Commissioners appointed under the provisions of the Treaty of April 11, 1908, are hereby jointly empowered and directed: to inspect the various sections of the boundary line between the United States and the Dominion of Canada and between Alaska and the Dominion of Canada at such times as they shall deem necessary; to repair all damaged monuments and buoys; to relocate and rebuild monuments which have been destroyed; to keep the boundary vistas open; to move boundary monuments to new sites and establish such additional monuments and buoys as they shall deem desirable; to maintain at all times an effective boundary line between the United States and the Dominion of Canada and between Alaska and the Dominion of Canada, as defined by the present treaty and treaties heretofore concluded, or hereafter to be concluded; and to determine the location of any point of the boundary line which may become necessary in the settlement of any question that may arise between the two governments.

The said Commissioners shall submit to their respective governments from time to time, at least once in every calendar year, a joint report containing a statement of the inspections made, the monuments and buoys repaired, relocated, rebuilt, moved, and established, and the mileage and location of vistas opened, and shall submit with their reports, plats and tables certified and signed by the Commissioners, giving the locations and geodetic positions of all monuments moved and all additional monuments established within the year, and such other information as may be necessary to keep the boundary maps and records accurately revised.

After the completion of the survey and demarcation of the boundary line between the United States and the Dominion of Canada from the Gulf of Georgia to Lake Superior and from the St. Lawrence River to the Atlantic Ocean, as provided for by the Treaty of April 11, 1908, the Commissioners appointed under the provisions of that Treaty shall continue to carry out the provisions of this Article, and, upon the death, resignation, or other disability of either of them, the Party on whose side the vacancy occurs shall

appoint an Expert Geographer or Surveyor as Commissioner, who shall have the same powers and duties in respect to carrying out the provisions of this Article, as are conferred by this Article upon the Commissioner appointed under the provisions of the said Treaty of 1908.

The Contracting Parties further agree that each government shall pay the salaries and expenses of its own commissioner and his assistants, and that the expenses jointly incurred by the Commissioners in maintaining the demarcation of the boundary line in accordance with the provisions of this Article shall be borne equally by the two Governments.

ARTICLE V

This treaty shall be ratified by the Contracting Parties and the ratifications shall be exchanged in Washington or Ottawa as soon as practicable. The treaty shall take effect on the date of the exchange of ratifications.

Upon the expiration of six years from the date of the exchange of ratifications of the present treaty, or any time thereafter, Article IV may be terminated upon twelve months' written notice given by either Contracting Party to the other, and following such termination the Commissioners therein mentioned and their successors shall cease to perform the functions thereby prescribed.

In faith whereof, the respective Plenipotentiaries have signed this treaty in duplicate and have hereunto affixed their seals.

Done at Washington the 24th day of February, A. D. 1925.

[SEAL]	CHARLES EVANS HUGHES
[SEAL]	ERNEST LAPOINTE

CONVENTION AND PROTOCOL BETWEEN THE UNITED STATES AND CANADA TO REGULATE THE LEVEL OF THE LAKE OF THE WOODS

Treaty Series No. 721

Convention Between the United States of America and Great Britain in Respect of the Dominion of Canada, Signed at Washington, February 24, 1925^a

The United States of America, and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, in respect of the Dominion of Canada,

^a Ratification advised by the Senate, Mar. 14, 1925; ratified by the President, Apr. 9, 1925; ratified by Great Britain in respect of Canada, May 30, 1925; ratifications exchanged at Washington, July 17, 1925; proclaimed by the President, July 17, 1925.

Desiring to regulate the level of Lake of the Woods in order to secure to the inhabitants of the United States and Canada the most advantageous use of the waters thereof and of the waters flowing into and from the Lake on each side of the boundary between the two countries, and

Accepting as a basis of agreement the recommendations made by the International Joint Commission in its final report of May 18th, 1917,⁹ on the Reference concerning Lake of the Woods submitted to it by the Governments of the United States of America and Canada,

Have resolved to conclude a Convention for that purpose and have accordingly named as their plenipotentiaries:

The President of the United States of America: Charles Evans Hughes, Secretary of State of the United States; and

His Britannic Majesty, in respect of the Dominion of Canada: The Honorable Ernest Lapointe, K. C., a member of His Majesty's Privy Council for Canada and Minister of Justice in the Government of that Dominion;

Who, having communicated to each other their full powers, found in good and due form, have agreed as follows:

ARTICLE I

In the present Convention, the term "level of Lake of the Woods" or "level of the lake" means the level of the open lake unaffected by wind or currents.

The term "Lake of the Woods watershed" means the entire region in which the waters discharged at the outlets of Lake of the Woods have their natural source.

The term "sea level datum" means the datum permanently established by the International Joint Commission at the town of Warroad, Minnesota, of which the description is as follows:

"Top of copper plug in concrete block carried below frost line, and located near fence in front of and to the west of new school-house. Established October 3, 1912. Elevation, sea level datum, 1068.797."

"The International Joint Commission" means the Commission established under the Treaty signed at Washington on the 11th day of January, 1909,¹⁰ between the United States of America and His Britannic Majesty, relating to boundary waters and questions arising between the United States and Canada.

⁹ *Final Report of International Joint Commission on Lake of the Woods Levels* (Washington, Government Printing Office, 1917).

¹⁰ *Foreign Relations*, 1910, p. 532.

ARTICLE II

The level of Lake of the Woods shall be regulated to the extent and in the manner provided for in the present Convention, with the object of securing to the inhabitants of the United States and Canada the most advantageous use of the waters thereof and of the waters flowing into and from the Lake on each side of the boundary between the two countries for domestic and sanitary purposes, for navigation purposes, for fishing purposes, and for power, irrigation and reclamation purposes.

ARTICLE III

The Government of Canada shall establish and maintain a Canadian Lake of the Woods Control Board, composed of engineers, which shall regulate and control the outflow of the waters of Lake of the Woods.

There shall be established and maintained an International Lake of the Woods Control Board composed of two engineers, one appointed by the Government of the United States and one by the Government of Canada from their respective public services, and whenever the level of the lake rises above elevation 1061 sea level datum or falls below elevation 1056 sea level datum the rate of total discharge of water from the lake shall be subject to the approval of this Board.

ARTICLE IV

The level of Lake of the Woods shall ordinarily be maintained between elevations 1056 and 1061.25 sea level datum, and between these two elevations the regulation shall be such as to ensure the highest continuous uniform discharge of water from the lake.

During periods of excessive precipitation the total discharge of water from the lake shall, upon the level reaching elevation 1061 sea level datum, be so regulated as to ensure that the extreme high level of the lake shall at no time exceed elevation 1062.5 sea level datum.

The level of the lake shall at no time be reduced below elevation 1056 sea level datum except during periods of low precipitation and then only upon the approval of the International Lake of the Woods Control Board and subject to such conditions and limitations as may be necessary to protect the use of the waters of the lake for domestic, sanitary, navigation and fishing purposes.

ARTICLE V

If in the opinion of the International Lake of the Woods Control Board the experience gained in the regulation of the lake under

Articles III and IV, or the provision of additional facilities for the storage of waters tributary to the lake, demonstrates that it is practicable to permit the upper limit of the ordinary range in the levels of the lake to be raised from elevation 1061.25 sea level datum to a higher level and at the same time to prevent during periods of excessive precipitation the extreme high level of the lake from exceeding elevation 1062.5 sea level datum, this shall be permitted under such conditions as the International Lake of the Woods Control Board may prescribe. Should such permission be granted, the level at which under Article III the rate of total discharge of water from the lake becomes subject to the approval of the International Lake of the Woods Control Board may, upon the recommendation of that Board and with the approval of the International Joint Commission, be raised from elevation 1061 sea level datum to a correspondingly higher level.

ARTICLE VI

Any disagreement between the members of the International Lake of the Woods Control Board as to the exercise of the functions of the Board under Articles III, IV, and V shall be immediately referred by the Board to the International Joint Commission whose decision shall be final.

ARTICLE VII

The outflow capacity of the outlets of Lake of the Woods shall be so enlarged as to permit the discharge of not less than forty-seven thousand cubic feet of water per second (47,000 c. f. s.) when the level of the lake is at elevation 1061 sea level datum.

The necessary works for this purpose, as well as the necessary works and dams for controlling and regulating the outflow of the water, shall be provided for at the instance of the Government of Canada, either by the improvement of existing works and dams or by the construction of additional works.

ARTICLE VIII

A flowage easement shall be permitted up to elevation 1064 sea level datum upon all lands bordering on Lake of the Woods in the United States, and the United States assumes all liability to the owners of such lands for the costs of such easement.

The Government of the United States shall provide for the following protective works and measures in the United States along the shores of Lake of the Woods and the banks of Rainy River, in so far as such protective works and measures may be necessary for the purposes of the regulation of the level of the lake under the present

Convention: namely, the removal or protection of buildings injuriously affected by erosion, and the protection of the banks at the mouth of Warroad River where subject to erosion, in so far in both cases as the erosion results from fluctuations in the level of the lake; the alteration of the railway embankment east of the town of Warroad, Minnesota, in so far as it may be necessary to prevent surface flooding of the higher lands in and around the town of Warroad; the making of provision for the increased cost, if any, of operating the existing sewage system of the town of Warroad, and the protection of the waterfront at the town of Baudette, Minnesota.

ARTICLE IX

The United States and the Dominion of Canada shall each on its own side of the boundary assume responsibility for any damage or injury which may have heretofore resulted to it or to its inhabitants from the fluctuations of the level of Lake of the Woods or of the outflow therefrom.

Each shall likewise assume responsibility for any damage or injury which may hereafter result to it or to its inhabitants from the regulation of the level of Lake of the Woods in the manner provided for in the present Convention.

ARTICLE X

The Governments of the United States and Canada shall each be released from responsibility for any claims or expenses arising in the territory of the other in connection with the matters provided for in Articles VII, VIII, and IX.

In consideration, however, of the undertakings of the United States as set forth in Article VIII, the Government of Canada shall pay to the Government of the United States the sum of two hundred and seventy-five thousand dollars (\$275,000) in currency of the United States. Should this sum prove insufficient to cover the cost of such undertakings one-half of the excess of such cost over the said sum shall, if the expenditure be incurred within five years of the coming into force of the present Convention, be paid by the Government of Canada.

ARTICLE XI

No diversion shall henceforth be made of any waters from the Lake of the Woods watershed to any other watershed except by authority of the United States or the Dominion of Canada within their respective territories and with the approval of the International Joint Commission.

ARTICLE XII

The present Convention shall be ratified in accordance with the constitutional methods of the High Contracting Parties and shall take effect on the exchange of the ratifications, which shall take place at Washington or Ottawa as soon as possible.

In faith whereof the above named Plenipotentiaries have signed the present Convention and affixed thereto their respective seals.

Done in duplicate at Washington, the 24th day of February, 1925.

[SEAL] CHARLES EVANS HUGHES

[SEAL] ERNEST LAPOINTE

Treaty Series No. 721

*Protocol Accompanying the Convention To Regulate the Level of the
Lake of the Woods*

At the moment of signing the Convention between the United States of America, and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, in respect of the Dominion of Canada, regarding the regulation of the level of Lake of the Woods, the undersigned Plenipotentiaries have agreed as follows:

1. The plans of the necessary works for the enlargement of the outflow capacity of the outlets of Lake of the Woods provided for in Article VII of the Convention, as well as of the necessary works and dams for controlling and regulating the outflow of the water, shall be referred to the International Lake of the Woods Control Board for an engineering report upon their suitability and sufficiency for the purpose of permitting the discharge of not less than forty-seven thousand cubic feet of water per second (47,000 c. f. s.) when the level of the lake is at elevation 1061 sea level datum. Any disagreement between the members of the International Lake of the Woods Control Board in regard to the matters so referred shall be immediately submitted by the Board to the International Joint Commission whose decision shall be final.

2. Should it become necessary to set up a special tribunal to determine the cost of the acquisition of the flowage easement in the United States provided for in Article VIII of the Convention, the Government of Canada shall be afforded an opportunity to be represented thereon. Should the cost be determined by means of the usual judicial procedure in the United States, the Government of Canada shall be given the privilege of representation by counsel in connection therewith.

3. Since Canada is incurring extensive financial obligations in connection with the protective works and measures provided for in the United States along the shores of Lake of the Woods and the banks of Rainy River, under Article VIII of the Convention, the plans, together with the estimates of cost, of all such protective works and measures as the Government of the United States may propose to construct or provide for within five years of the coming into force of the Convention shall be referred to the International Lake of the Woods Control Board for an engineering report upon their suitability and sufficiency for the purpose of the regulation of the level of the lake under the Convention. Any disagreement between the members of the International Lake of the Woods Control Board in regard to the matters so referred shall be immediately submitted by the Board to the International Joint Commission whose decision shall be final.

4. In order to ensure the fullest measure of cooperation between the International Lake of the Woods Control Board and the Canadian Lake of the Woods Control Board provided for in Article III of the Convention, the Government of Canada will appoint one member of the Canadian Board as its representative on the International Board.

5. Until the outlets of Lake of the Woods have been enlarged in accordance with Article VII of the Convention, the upper limit of the ordinary range in the levels of the lake provided for in Article IV of the Convention shall be elevation 1060.5 sea level datum, and the International Lake of the Woods Control Board may advise the Canadian Lake of the Woods Control Board in respect of the rate of total discharge of water from the lake which may be permitted.

In faith whereof the undersigned Plenipotentiaries have signed the present Protocol and affixed thereto their respective seals.

Done in duplicate at Washington the 24th day of February, 1925.

[SEAL]	CHARLES EVANS HUGHES
[SEAL]	ERNEST LAPOINTE

Treaty Series No. 721

*Agreement Accompanying the Convention and Protocol To Regulate
the Level of the Lake of the Woods*

At the moment of signing the Convention and Protocol between the United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, in respect of the Dominion of Canada, regarding the regulation of the level of Lake of the Woods, the undersigned Plenipotentiaries have agreed that the Government

of the United States and the Government of the Dominion of Canada shall, without delay, address to the International Joint Commission identic letters of reference relating to Rainy Lake and other upper waters of the Lake of the Woods watershed as follows:

"I have the honor to inform you that, in pursuance of Article 9 of the Treaty of the 11th January 1909, between the United States and Great Britain, the Governments of the United States and Canada have agreed to refer to the International Joint Commission the following questions for examination and report, together with such conclusions and recommendations as may be deemed appropriate:

"Question 1. In order to secure the most advantageous use of the waters of Rainy Lake and of the boundary waters flowing into and from Rainy Lake, for domestic and sanitary purposes, for navigation purposes, for fishing purposes, and for power, irrigation and reclamation purposes; and in order to secure the most advantageous use of the shores and harbors of both Rainy Lake and the boundary waters flowing into and from the lake, is it, from an economic standpoint, now practicable and desirable, having regard for all or any of the interests affected thereby, or under what conditions will it become thus practicable and desirable—

"(a) To regulate the level of Rainy Lake in such a manner as to permit the upper limit of the ordinary range of the levels to exceed elevation 1108.61 sealevel datum?

"(b) To regulate the level of Namakan Lake and the waters controlled by the dams at Kettle falls in such a manner as to permit the upper limit of the ordinary range of the levels to exceed elevation 1120.11 sealevel datum?

"(c) To provide storage facilities upon all or any of the boundary waters above Namakan Lake?

"Question 2. If it be found practicable and desirable thus (1) to regulate the level of Rainy Lake, and/or (2) to regulate the level of Namakan Lake and the waters controlled by the dams at Kettle falls, and/or (3) to provide storage facilities upon all or any of the boundary waters above Namakan Lake—

"(a) What elevations are recommended?

"(b) To what extent will it be necessary to acquire lands and to construct works in order to provide for such elevations and/or storage, and what will be their respective costs?

"(c) What interests on each side of the boundary would be benefited? What would be the nature and extent of such benefit in each case? How should the cost be apportioned among the various interests so benefited?

"Question 3. What methods of control and operation would be feasible and advisable in order to regulate the volume, use and outflow of the waters in each case in accordance with such recommendations as may be made in answer to questions one and two?

"Question 4. What interests on each side of the boundary are benefited by the present storage on Rainy Lake and on the waters controlled by the dams at Kettle falls? What are the nature and extent of such benefits in each case? What is the

cost of such storage and how should such cost be apportioned among the various interests so benefited?

"Each Government will appoint from its public service such engineering and other technical assistance as may be necessary to enable the Commission to make the desired examination and to submit their report."

IN WITNESS WHEREOF the undersigned have signed this Agreement at Washington this 24th day of February, 1925.

CHARLES EVANS HUGHES

*Secretary of State of the
United States of America*

ERNEST LAPOINTE

*Minister of Justice in the Government
of the Dominion of Canada*

CONTINUED PROTESTS BY THE CANADIAN GOVERNMENT AGAINST INCREASED DIVERSION OF THE WATERS OF THE GREAT LAKES ²¹

711.4216 M 58/53

The Acting Secretary of State to the British Ambassador (Howard)

WASHINGTON, *February 13, 1925.*

EXCELLENCY: I have the honor to transmit herewith for your information a copy of a notice of a hearing which will be held in the office of the Secretary of War on February 20, 1925, on an application made by the Sanitary District of Chicago for a permit to divert an annual average of ten thousand cubic feet of water per second from Lake Michigan.

Accept [etc.]

JOSEPH C. GREW

[Enclosure]

*Notice Issued by the Secretary of War (Weeks) of a Hearing To Be
Held on February 20, 1925*

FEBRUARY 10, 1925.

The Secretary of War will hold a hearing in his office at eleven A. M., February 20, 1925, on an application made by the Sanitary District of Chicago on January 31, 1925, for a permit to divert an annual average of 10,000 cubic feet per second of water from Lake Michigan.

He now has under consideration the question of issuing a permit, covering a period of five years, to the Sanitary District, to divert

²¹ Continued from *Foreign Relations*, 1924, vol. I, pp. 349-356.

from Lake Michigan, through its main drainage canal and auxiliary channels, an amount of water not to exceed an annual average of 8,500 cubic feet per second, with an instantaneous maximum not to exceed 11,000 cubic feet per second—the permit to be made conditional upon the following:

(1) The Sanitary District of Chicago shall submit for approval and carry out a program of sewage treatment by artificial processes which will provide the equivalent of the complete (100%) treatment of the sewage of a human population of 1,200,000 before the expiration of the permit, proper credit to be given for all completed portions of projects which are a part of its sewage treatment program.

(2) The Sanitary District shall pay its share of the cost of such regulating or compensating works to restore the levels or compensate for the lowering of the Great Lakes, if and when constructed, and post a guarantee in the way of a bond or certified check in the amount of \$1,000,000 as an evidence of its good faith in this matter.

(3) The execution of the sewage treatment program and the diversion of water from Lake Michigan shall be under the supervision of the U. S. District Engineer at Chicago, and the diversion of water from Lake Michigan shall be under his direct control in times of flood on the Illinois and Des Plaines Rivers.

(4) If, within six months after the issuance of this permit, the City of Chicago does not adopt a program for metering at least ninety percent of its water service and provide for the execution of said program at the average rate of ten percent per annum thereafter, this permit may be revoked without notice.

The Secretary desires that the discussion at the hearing be limited strictly to the matter contained in the application for the permit, that is, the amount of water to be granted to Chicago and the conditions upon which the issuance of a permit should be contingent.

As the time which can be given each side for the hearing is limited, it is desired that the number of speakers be limited to as few as practicable, and it is hoped that the proponents and opponents of the application will select their speakers with this object in view.

711.4216 M 58/55

The British Ambassador (Howard) to the Secretary of State

No. 198

WASHINGTON, February 24, 1925.

SIR: I have the honor to refer to your note of the 13th instant, and to inform you that the Government of Canada have observed that public hearings have recently been held by the War Department in Washington on an application made by the Sanitary District of Chicago for permission to increase the quantity of water which that District is now permitted to divert from Lake Michigan under au-

thority of the Secretary of War and that the question whether, in accordance with the recommendation of the Chief Engineer, the amount permitted to be diverted should, under certain conditions, be increased to 8,500 cubic feet per second instead of 4,167 cubic feet per second, to which the Sanitary District is limited under a recent judgment of the Supreme Court of the United States, was also considered.

The Dominion Government now desire me to state that, while they would not wish to oppose any interim measure which may be necessary to protect the health of the inhabitants of the city of Chicago, they feel compelled to reiterate the protest they have already made against the abstraction of water from the St. Lawrence basin¹² and, in order that there may be no misunderstanding, I desire to take this opportunity of making it clear that the Government of Canada do not surrender any claims that might be put forward for consequential losses already suffered or which may possibly be suffered in the future on this account. The Dominion Government are of opinion that it is impossible to lose sight of the fact that the effect of the present increase in permitted diversion of water will be to postpone the relief for which the navigation and other interests injuriously affected by the attitude of the Chicago Sanitary District have been waiting already too long, and which, subject only to the paramount necessity of safeguarding public health, these interests are now entitled to receive.

I feel sure that you will readily appreciate that the injury to Canadian interests by any lowering of the natural level of the Great Lakes connecting waters and the St. Lawrence River by the diminution of their natural water supply is of constantly increasing importance not only on account of navigation on the Great Lakes and lower St. Lawrence River but also on account of power development. The Government of Canada have not failed to recognise that United States interests are likewise substantially affected by this question.

The Government of Canada feel confident that the Government of the United States is fully alive to the advisability of restricting within the narrowest possible limit the amount of water to be diverted from Lake Michigan for use by the Sanitary District of Chicago, and in this connection, they feel certain that no permit will be granted for the diversion of any water not essential to safeguarding the health of the population of that city, and, further, that the period during which such diversion must on this account continue, will be made as short as circumstances permit.

¹² See despatch No. 144, Feb. 13, 1924, from the British Chargé, *Foreign Relations*, 1924, vol. 1, p. 350.

I should be most grateful if you would be so good as to communicate the contents of this note to the interested authorities of the United States Government.

I have [etc.]

ESME HOWARD

711.4216 M 58/58

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, March 21, 1925.

EXCELLENCY: Referring to my predecessor's note of February 26, 1925,¹⁸ informing you that he had transmitted a copy of your note No. 198 of February 24, 1925, to the Secretary of War, I have the honor to inform you that under date of March 3, 1925, a permit was issued by the Secretary of War to the Sanitary District of Chicago authorizing the temporary withdrawal from Lake Michigan of 8,500 cubic feet of water per second until December 31, 1929, subject to certain specific conditions which are set forth in the permit.

The permit issued by the Secretary of War, a copy of which is enclosed, was made public on March 7, 1925.

Accept [etc.]

FRANK B. KELLOGG

[Enclosure]

Permit Issued by the War Department to the Sanitary District of Chicago

WHEREAS, By Section 10 of an Act of Congress, approved March 3, 1899, entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," it is provided that it shall not be lawful to build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures in any part, roadstead, haven, harbor, canal, navigable river, or other water of the United States, outside established harbor lines, or where no harbor lines have been established, except on plans recommended by the Chief of Engineers and authorized by the Secretary of War; and it shall not be lawful to excavate or fill, or in any manner to alter or modify the course, location, condition or capacity of any port, roadstead, haven, harbor, canal, lake, harbor of refuge, or inclosure within the limits of any breakwater, or of the channel of any navigable water of the United States, unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of War prior to beginning the same;

¹⁸ Not printed.

AND WHEREAS, Application has been made to the Secretary of War by the Sanitary District of Chicago, Illinois, for authority to divert an annual average of 10,000 cubic feet of water per second from Lake Michigan through the channels of said Sanitary District;

AND WHEREAS, In the judgment of the Secretary of War, an annual average diversion of more than 8,500 cubic feet per second should not now be permitted;

NOW THEREFORE, this is to certify that, upon the recommendation of the Chief of Engineers, the Secretary of War, under the provisions of the aforesaid statute, hereby authorizes the said Sanitary District of Chicago to divert from Lake Michigan, through its main drainage canal and auxiliary channels, an amount of water not to exceed an annual average of 8,500 cubic feet per second, the instantaneous maximum not to exceed 11,000 cubic feet per second, upon the following conditions:

1. That there shall be no unreasonable interference with navigation by the work herein authorized.

2. That if inspections or any other operations by the United States are necessary in the interests of navigation, all expenses connected therewith shall be borne by the permittee.

3. That no attempt shall be made by the permittee or the owner to forbid the full and free use by the public of any navigable waters of the United States.

4. That the Sanitary District of Chicago shall carry out a program of sewage treatment by artificial processes which will provide the equivalent of the complete (100%) treatment of the sewage of a human population of at least 1,200,000 before the expiration of the permit.

5. That the Sanitary District shall pay its share of the cost of regulating or compensating works to restore the levels or compensate for the lowering of the Great Lakes system, if and when constructed, and post a guarantee in the way of a bond or certified check in the amount of \$1,000,000 as an evidence of its good faith in this matter.

6. That the Sanitary District shall submit for the approval of the Chief of Engineers and the Secretary of War plans for controlling works to prevent the discharge of the Chicago River into Lake Michigan in times of heavy storms. These works shall be constructed, in accordance with the approved plans and shall be completed and ready for operation by July 1, 1929.

7. That the execution of the sewage treatment program and the diversion of water from Lake Michigan shall be under the supervision of the U. S. District Engineer at Chicago, and the diversion of water from Lake Michigan shall be under his direct control in times of flood on the Illinois and Des Plaines Rivers.

8. That if, within six months after the issuance of this permit, the City of Chicago does not adopt a program for metering at least ninety per cent of its water service and provide for the execution of said program at the average rate of ten per cent per annum, thereafter, this permit may be revoked without notice.

9. That if, in the judgment of the Chief of Engineers and the Secretary of War, sufficient progress has not been made by the end of each calendar year in the program of sewage treatment prescribed herein so as to insure full compliance with the provisions of condition 4, this permit may be revoked without notice.

10. That this permit is revocable at the will of the Secretary of War, and is subject to such action as may be taken by Congress.

11. That this permit, if not previously revoked or specifically extended, shall cease and be null and void on December 31, 1929.

WITNESS my hand this 3rd day of March, 1925.

H. TAYLOR

Major General, Chief of Engineers

WITNESS my hand this 3rd day of March, 1925.

JOHN W. WEEKS

Secretary of War

711.4216 M 58/61

The British Ambassador (Howard) to the Secretary of State

No. 467

WASHINGTON, May 7, 1925.

SIR: In your note of March 21st last you were so good as to inform me that a permit had been granted on the 3rd of that month by the Secretary of War to the Trustees of the Sanitary District of Chicago authorising a diversion from Lake Michigan, through its main drainage canal and auxiliary channels, of an amount of water not to exceed an annual average of 8,500 cubic feet per second, the instantaneous maximum not to exceed 11,000 cubic feet per second.

I now have the honour to inform you that before considering further the situation resulting from the decision of the Secretary of War to allow an increase of the flow through the main drainage canal and auxiliaries beyond the limit of 4,167 cubic feet per second specified in the permit of 30th June, 1910, and the consequences to navigation, power and other interests on the Great Lakes and St. Lawrence waterway system resulting from this continued diversion, against which the Government of Canada have been compelled to protest repeatedly and against which they must still protest, the Dominion Government desire to ascertain precisely the extent to which the new permit will modify the actual conditions which obtained during the year immediately preceding the 3rd March, 1925.

Inasmuch as previous permits on the part of the Secretary of War have authorised a certain total flow in the main canal and auxiliary channels, either by direct limitation of flow or by authorization of channel capacity, the Government of Canada interpret the permit of March 3rd last as having been issued on a similar basis, with the sole exception that modification has been made in the total amount

of water specified. In other words, the flow permitted under previous permits included all waters from whatever source passing Lockport, and under the permit of 3rd March, 1925, this flow is not to exceed an annual average of 8,500 cubic feet per second.

The Government of Canada would, therefore, appreciate being advised as follows:—

First,—What has been the actual average flow of the water passing Lockport during the year ending 3rd March, 1925;

Second,—By what amount will this average flow of water passing Lockport be immediately reduced under the terms of the permit of 3rd of March;

Third,—By what amount will this average flow be further reduced by 31st of December, 1929, the date upon which the new permit terminates.

I have [etc.]

(For the Ambassador)

H. G. CHILTON

711.4216 M 58/63

The Secretary of State to the British Chargé (Chilton)

WASHINGTON, June 15, 1925.

SIR: Referring further to your note No. 467 of May 7, 1925, concerning the diversion of water from Lake Michigan by the Sanitary District of Chicago, I have the honor to furnish you with the following information in reply to the inquiries made by the Canadian Government:

First: The actual average flow of the water passing Lockport during the year ending March 3, 1925, has been 9,700 cubic feet per second.

Second: This average flow of water passing Lockport will not be immediately reduced by any amount under the terms of the permit issued by the Secretary of War on March 3, 1925.

Third: This average flow may be reduced by December 31, 1929, by an amount varying from 1,750 to 3,000 cubic feet per second.

By way of explanation of the wide range over which the amount of reduction by December 31, 1929, varies, it should be stated that the amount of reduction depends upon the decrease in the sewage load on the water in the Drainage Canal. The permit prescribes that a minimum population of 1,200,000 be provided with the equivalent of 100% treatment. The program of sewage treatment plant construction contemplates the completion of plants which will give 100% treatment to a population of slightly over 1,400,000. If this program is carried to completion a larger reduction may be made

in the flow than if only the requirements of the permit are carried out.

Furthermore, when the controlling works which are required to be placed in the Chicago River or Drainage Canal to prevent reversals into Lake Michigan in times of flood are completed and in operation it may be found practicable to make a much larger reduction in the flow of water with safety to the water supply of the City of Chicago during winter season, a time when the oxygen content of the diluting water is much higher than it is during the summer season.

It is also expected that there will be a substantial reduction in the amount of water consumed in the locality for domestic purposes as the result of a requirement of the permit of March 3, 1925, which makes it necessary for the City of Chicago to adopt and carry into execution a program of metering its water supply. By December 31, 1929, this reduction will vary between 400 and 600 cubic feet per second.

The net result of all these varying influences will be to make it possible to reduce the average flow by a minimum amount of 1,750 cubic feet per second and possibly by the maximum amount of 3,000 cubic feet per second.

To explain the apparent inconsistency between the amount of water specified in the permit (8,500 cubic feet per second measured at the intakes) and the flow at Lockport (9,700 cubic feet per second) it might be stated that the difference represents the amount of domestic water consumption by the City of Chicago which could not be authorized or included properly in a permit issued to the Sanitary District of Chicago, a separate municipality, other than to make the permit non-operative in case of failure on the part of the former agency to adopt certain measures of conservation which were specified. Condition 8 of the permit of March 3, 1925, looks to a substantial reduction of this portion of the flow in the Chicago Drainage Canal, at the same time condition 4 makes possible a reduction in the amount of water used for dilution of sewage.

Accept [etc.]

For the Secretary of State:

JOSEPH C. GREW

711.4216 M 58/68

The British Chargé (Chilton) to the Secretary of State

No. 813

MANCHESTER, MASS., September 15, 1925.

[Received September 17.]

SIR: At the request of the Governor General of Canada I have the honour to inform you that the Government of Canada has care-

fully considered your note of June the 15th last on the subject of the interpretation of the permit granted by the United States Secretary of War on the 3rd of March, 1925, for the diversion of water from Lake Michigan by the Sanitary District of Chicago.

The Government of Canada is constrained to point out that despite repeated protests against the diversion of water from Lake Michigan, the above-mentioned permit of March 3rd, 1925, authorizes a diversion in amount over twice that stipulated in any previous permits.

In this connection I have the honour to state that the Canadian Government also views with apprehension the interpretation which has been placed upon the permit in your note under reference. As set forth in the note which I had the honour to address to you on this subject on May the 7th last, the Government of Canada believed that the present permit, as in the case of previous permits, would limit the amount of the total diversion and be applicable to all waters passing Lockport. The interpretation of the permit of the 3rd March, 1925, as contained in your note under reference, would indicate, however, that the point of measurement is changed from Lockport to the intake works of the Sanitary District and through such change the permit recognizes an actual diversion much in excess of the stipulated amount of 8,500 second feet set forth in the permit. In other words, it is clearly stated that the permit does not embrace water diverted by the City of Chicago's pumping stations which at the present rate of pumping amounts to some 1200 second feet thereby increasing the authorized diversion from 8,500 second feet to 9,700 second feet.

In addition, it would appear that if measurement be made at the intake from Lake Michigan the result would be to exclude from the operations of the permit the intercepted flow of the Chicago and Little Calumet Rivers, which varies in amount but is equal, it is understood, to an annual average of about 1300 second feet. In these circumstances it would appear that the effect of the permit of the 3rd March would not merely authorize an average annual diversion of 9,700 second feet as above noted, but would recognize and permit of a total diversion passing Lockport of 11,000 second feet.

While it is understood from your note of June the 15th that the Government of the United States anticipates that at the expiry of a five year period the annual diversion may be reduced between 1,750 and 3,000 second feet, this is far from reassuring since even if the larger suggested reduction becomes effective, the diversion at the beginning of 1930 will still be almost double that authorized by the Secretary of War of the United States when action for an injunction against the Sanitary District of Chicago was commenced in 1908.

Furthermore, the Government of Canada would point out that works dependent on the levels and flow of the Great Lakes System cannot be confidently projected or economically carried out if diversions from the watershed are permitted without mutual assent thereto. Moreover, in this connection the continued and increasing impairment of the natural levels and discharge of the Great Lakes System, due to the diversion from Lake Michigan, raises the question as to the extent to which the Canadian Government would be warranted in giving consideration to any further improvements therein until there is an assurance of definite curtailment of such diversion.

In connection with this matter the attention of the Canadian Government has been called to a permit dated the 30th April, 1925, from the United States Acting Secretary of War, authorizing the Sanitary District of Chicago to carry out certain dredging work in the Calumet river system, which it is understood will involve an expenditure of \$1,500,000 and enable the Calumet-Sag Channel to bypass 2000 second feet into the main drainage canal. If the report of this large expenditure is correct, it would appear to indicate that the Sanitary District is proceeding in expectation of continued diversion.

The Canadian Government is therefore compelled to conclude that despite repeated protests no immediate or definite reduction has been provided and, furthermore, that if the above interpretation of the permit of 3rd March, 1925, is confirmed, the effect will actually be to authorize a greater diversion than is now being made.

I accordingly have the honour to request that you will be so good as to communicate the above consideration to the competent authorities of the United States Government and to enquire whether it is not their intention to take measures to ensure immediate as well as more definite and more substantial future curtailment in the amount of water which is being diverted with such serious results from the Great Lakes and St. Lawrence System.

I have [etc.]

H. G. CHILTON

711.4216 M 58/72

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, November 24, 1925.

EXCELLENCY: Referring further to your Embassy's note No. 813 of September 15, 1925, bringing to my attention certain remarks and inquiries of the Canadian Government in regard to the diversion of water from Lake Michigan by the Sanitary District of Chicago, I take pleasure in submitting the following statements:

The Sanitary District of Chicago to which the permit of March 3, 1925, was issued by the Secretary of War, is a municipal corporation separate and distinct from the City of Chicago. The operations of the Sanitary District are conducted under direct authority of the legislature of the State of Illinois without reference to the operations of the municipal government of the City of Chicago. Diversion of water for domestic consumption in the City of Chicago being purely a function of the municipal government of the City, it is considered that the authority granted the Sanitary District could not be made to apply to or include this other diversion as well. The case before the Secretary of War for action involved the granting of a permit for diversion of water for sanitary purposes only, and the instrument of authority was worded accordingly.

On the other hand, it seemed to the Secretary of War that the diversion of water for domestic consumption by the City of Chicago was larger than it should be, and that the amount wasted was not a negligible portion of the gross diversion. He also considered that this excessive diversion for domestic purposes made the cost of sewage treatment plant construction and operation unnecessarily high and consequently added to the length of the construction period and the difficulties of financing. For these reasons the Secretary of War took cognizance of the diversion for which the City of Chicago is responsible, in a restrictive way, rather than by permissive means, and included a condition in the permit making the instrument voidable in case the City of Chicago fails to take specified steps looking to a curtailment in the amount of water diverted for domestic purposes.

In the judgment of the Secretary of War the average diversion which should be authorized for sanitary purposes under the conditions known to exist should be not less than 8,500 cubic feet per second. The safety of the lives and health of citizens of the locality cannot be disregarded, and until the conditions of the permit of March 3, 1925, have been complied with no substantial reduction in the amount of diversion could be made without endangering health if not life.

The expression "measured at the intakes", used to designate the places where the total actual flow should not exceed that specified in the permit, is hypothetical as it is impracticable to measure the diversion at the numerous intakes with accuracy. For this reason, the practical enforcement of the limitation placed upon the diversion will be carried out at Lockport. Measurements taken there will determine the gross diversion, sanitary and domestic, and, as accurate information is available in regard to the amount of water pumped by the City of Chicago for domestic purposes, the sanitary diversion

may be computed by subtracting the domestic diversion from the gross flow at Lockport.

The term "diversion" as used in the permit is construed to include the discharge of the Chicago and Calumet Rivers. In view of the methods employed in computing the amount of the diversion the discharge of these streams will be included within the 8,500 cubic feet per second authorized by the permit of March 3, 1925.

With reference to the permit issued on April 29, 1925, by the Acting Secretary of War, authorizing the dredging of the Little Calumet River, attention is invited to the following special condition attached thereto: "That this permit does not authorize and should not be construed as authorizing or allowing any increase whatever in the diversion of water from Lake Michigan authorized by permit issued to the Sanitary District of Chicago by the Secretary of War March 3, 1925, nor as modifying in any respect the conditions of that permit."

The deepening of the Little Calumet River will give the Sanitary District of Chicago better control over river reversals, for it will increase the discharge capacity of the system at intermediate stages and insure protection of the water supply during these critical periods. Since the total sanitary diversion is limited to an average of 8,500 cubic feet per second and an instantaneous maximum of 11,000 cubic feet per second, if the Sanitary District chooses to pass 2,000 cubic feet per second through the Calumet River and Sag Channel it will be required to reduce the amount diverted through its other intakes to keep within the limitations placed by the permit of March 3, 1925.

The Canadian Government is correct in concluding that no immediate reduction in diversions has been provided, but its conclusion that no definite reduction is assured and that the effect of the permits will actually be to authorize a greater diversion than is now being made cannot be confirmed. The *gross flow* at Lockport will not exceed an average of 9,700 cubic feet per second, and by the time the permit of March 3, 1925, has expired the gross flow may be reduced to 8,000 cubic feet per second and probably to 6,700 cubic feet per second. The sewage treatment program of the Sanitary District has been arranged, so as to make it possible to effect a reduction to a gross flow of 4,167 cubic feet per second by the year 1935 or before.

I shall be grateful if you will cause the foregoing statements to be brought to the attention of the Canadian Government.

Accept [etc.]

FRANK B. KELLOGG

INTIMATION BY THE CANADIAN GOVERNMENT OF ITS CLAIM TO
SOVEREIGNTY IN THE ISLANDS OF THE NORTH

800.014 Arctic/2

The British Chargé (Chilton) to the Secretary of State

No. 627

WASHINGTON, June 15, 1925.

SIR: I have the honour to inform you that the Government of Canada have reason to believe, from statements which have lately appeared in the press, that a scientific expedition, commonly referred to as the MacMillan expedition, organised under the auspices of the National Geographical [*Geographic*] Society with the co-operation of the United States Navy, will shortly be leaving for the far North for the purpose of exploring and flying over Baffin, Ellesmere, Axel Heiberg and certain other islands within the northern territories of the Dominion.

As you are doubtless aware, posts of the Royal Canadian Mounted Police have been established in Baffin and Ellesmere islands and other sections of the Canadian northern territories, in addition to which Police patrols through the Arctic islands have created depots of provisions at various centres. There are also a number of Hudson Bay Company posts in existence at island and mainland points.

In these circumstances, and although the Dominion Government have received no intimation from the Government of the United States regarding the route of the MacMillan expedition or of the intention of the members thereof to carry out explorations through and over Canadian territory, they have requested me to inform you of their readiness to furnish the expedition with the necessary permits for an exploring and scientific expedition entering Canadian northern territories, and possibly desiring to fly over Baffin, Ellesmere and the adjoining islands within the boundaries of the Dominion. Legislation formally requiring scientific or exploring expeditions to secure such permits before entering any part of the Canadian northern territories was enacted by both Houses of Parliament this month.

I would also take this opportunity of assuring you of the Canadian Government's readiness to afford the MacMillan expedition any assistance within the power of the Royal Canadian Mounted Police and the other Canadian officers in the north. In this connection, I would add that the Dominion Government *S. S. Arctic* will sail at an early date on her customary northern patrol, and will carry Royal Canadian Mounted Police details and reliefs. This vessel will touch at various points and will visit the police and trading posts on Ellesmere Island.

I have [etc.]

H. G. CHILTON

800.014Arctic/8

The Secretary of State to the British Chargé (Chilton)

WASHINGTON, June 19, 1925.

SIR: I beg to acknowledge the receipt of your note No. 627, dated June 15, 1925, concerning the proposed MacMillan Exploring Expedition. It is the understanding of this Department that the Expedition in question will sail from Wiscasset, Maine, on June 20, directly to Etah, Greenland, and that no flights over Baffin Island are contemplated. The planes attached to the Expedition are expected to fly from Etah across Ellesmere Island to Axel Heiberg Land, and to establish a base there from which exploration flights to the northward and westward may be made.

A copy of your note has been forwarded to the other interested departments of this Government and, upon receipt of further information, I shall address a communication to you dealing with the other questions raised in your note.

In order that full information may be available for use in studying these questions, I shall be grateful if you will inform me what constitutes a post of the Royal Mounted Police mentioned in the second paragraph of your note and the establishment thereof; where such posts have been established; how frequently they are visited; and whether they are permanently occupied, and, if so, by whom.

I desire to thank you for the offer of cooperation by any Canadian agency which may temporarily be in the same territory with the MacMillan Expedition and I am sure that the persons responsible for the Expedition will also appreciate the kind offer of the Canadian Government. The scientific character of the Expedition and the experience of those participating in it give assurance that useful data and information of value to the world will unquestionably result from their efforts.

Accept [etc.]

FRANK B. KELLOGG

800.014Arctic/4

The British Chargé (Chilton) to the Secretary of State

No. 676

MANCHESTER, MASS., July 2, 1925.

[Received July 6.]

SIR: In continuation of my note No. 627 of the 15th instant [ultimo], and in response to the specific enquiries contained in your note of the 19th ultimo, I have the honour to inform you that I have received the following particulars from the Governor General of Canada regarding posts of the Royal Canadian Mounted police

established in Baffin and Ellesmere islands and other sections of the Canadian Northern territories:

A Mounted Police post in so far as buildings are concerned is composed of a small barracks to house members of the Force and separate buildings for storing supplies. In so far as personnel is concerned, each post is in charge of a non-commissioned officer with two or three constables for duty and patrols, and the necessary number of natives to act as dog drivers, guides and interpreters.

The Posts established in the Eastern Arctic Sub-District include the following:—

Baffin Island

- (1) Pangnirtung, Cumberland Sound,
- (2) Ponds Inlet, on the North end of the island.

Devon Island

- (1) Dundas Harbour.

Ellesmere Island

- (1) Craig Harbour, (South of the island)
- (2) Rice's Strait, (near Cape Sabine).

All the above mentioned posts are permanently occupied by members of the Royal Canadian Mounted Police, with the exception of Rice's Strait, near Cape Sabine, where stores only have been placed, pending the arrival of buildings for a permanent post and personnel, which are being sent up this year.

The above Sub-District is in charge of a Commissioned officer of the Royal Canadian Mounted Police who resides at any one of the posts, as circumstances demand. All the posts are visited once a year by the Commissioned Officer mentioned and by the officials of the Canadian Department of the Interior.

In regard to the duties of members of the Royal Canadian Mounted Police stationed in the Eastern Arctic, it may be added that all the Mounted Police Detachments in the Eastern Arctic are Post Offices and Customs Ports, and the Non-Commissioned Officers in charge have been appointed Postmasters and Collectors of Customs.

Furthermore, the duties of members of the Force stationed in the Eastern Arctic include the supervision of the welfare of the Eskimo for the Department of Indian Affairs, educating them as far as possible in the White Man's Laws and issuing destitute relief where necessary, enforcement of all the Ordinances and Regulations of the Northwest Territories, including Game Laws and the protection of Musk Oxen, and the issue of Game, Animal and Bird Licenses to the various Trading Companies, the supervision of liquor permits, the enforcement of the Migratory Birds Convention Act for the Department of the Interior; the enforcement of the Criminal Code and Assistance to the Post Office and Customs Department, as set forth in the last paragraph above, as well as to the Department of

Mines and Agriculture in the collection of Eskimo material and ethnological and biological specimens.

Members of the Force are also called upon to assist in the taking of the Census and assisting the Director of Meteorological Service in the taking of readings at the different Posts from time to time, and to supply topographical information to the Federal Service.

In addition, Police patrols to surrounding settlements and Eskimo villages and also extended patrols to remote points are also made by each detachment for the purpose of obtaining the information required.

In bringing the above information to your notice, I have the honour to renew the assurance conveyed to you in my above mentioned note of the Canadian Government's readiness to afford the MacMillan expedition any assistance within the power of the Royal Canadian Mounted Police and the other Dominion officers in Canadian Northern territories.

I have [etc.]

H. G. CHILTON

800.014Arctic/10

The Secretary of State to the British Chargé (Chilton)

WASHINGTON, July 18, 1925.

SIR: I beg to acknowledge the receipt of your Note No. 676, dated July 2, 1925, concerning certain laws of the Arctic Ocean and the posts of the Royal Canadian Mounted Police established therein.

The questions raised by your Note No. 627, of June 15, 1925, and by the Note under acknowledgment, are receiving the careful consideration of this Government and a reply thereto will be forwarded when the necessary study of this matter has been completed.¹⁴

Accept [etc.]

FRANK B. KELLOGG

REGULATIONS TO GIVE EFFECT TO THE CONVENTION OF JUNE 6, 1924, BETWEEN THE UNITED STATES AND CANADA FOR THE SUPPRESSION OF SMUGGLING¹⁵

711.429/69

Executive Order No. 4306, September 19, 1925, Approving Regulations To Give Effect to the Convention of June 6, 1924

WHEREAS the Convention concluded between the United States and His Britannic Majesty in respect of Canada, for the suppression of

¹⁴ Apparently no further reply was made to these British notes.

¹⁵ For previous correspondence, see *Foreign Relations*, 1924, vol. I, pp. 188 ff.

smuggling operations along the boundary between the United States and the Dominion of Canada, and for other purposes, signed on June 6, 1924, and proclaimed on July 17, 1925, reads as follows:

ARTICLE I

The High Contracting Parties agree that the appropriate officers of the Governments of the United States of America and of Canada respectively shall be required to furnish upon request to duly authorized officers of the other Government, information concerning clearances of vessels or the transportation of cargoes, shipments or loads of articles across the international boundary when the importation of the cargo carried or of articles transported by land is subject to the payment of duties; also to furnish information respecting clearances of vessels to any ports when there is ground to suspect that the owners or persons in possession of the cargo intend to smuggle it into the territory of the United States or of Canada.

ARTICLE II

The High Contracting Parties agree that clearance from the United States or from Canada shall be denied to any vessel carrying cargo consisting of articles the importation of which into the territory of the United States or of Canada, as the case may be, is prohibited, when it is evident from the tonnage, size and general character of the vessel, or the length of the voyage and the perils or conditions of navigation attendant upon it, that the vessel will be unable to carry its cargo to the destination proposed in the application for clearance.

ARTICLE III

Each of the High Contracting Parties agrees with the other that property of all kinds in its possession which, having been stolen and brought into the territory of the United States or of Canada, is seized by its customs authorities, shall, when the owners are nationals of the other country, be returned to such owners, subject to satisfactory proof of such ownership and the absence of any collusion, and subject moreover to payment of the expenses of the seizure and detention and to the abandonment of any claims by the owners against the customs, or the customs officers, warehousemen or agents, for compensation or damages for the seizure, detention, warehousing or keeping of the property.

ARTICLE IV

The High Contracting Parties reciprocally agree to exchange information concerning the names and activities of all persons known or suspected to be engaged in violation of the narcotic laws of the United States or of Canada, respectively.

ARTICLE V

It is agreed that the customs and other administrative officials of the respective Governments of the United States and of Canada shall

upon request be directed to attend as witnesses and to produce such available records and files or certified copies thereof as may be considered essential to the trial of civil or criminal cases, and as may be produced compatibly with the public interest.

The cost of transcripts of records, depositions, certificates, and letters rogatory in civil or criminal cases, and the cost of first-class transportation both ways, maintenance and other proper expenses involved in the attendance of such witnesses shall be paid by the nation requesting their attendance at the time of their discharge by the court from further attendance at such trial. Letters rogatory and commissions shall be executed with all possible despatch and copies of official records or documents shall be certified promptly by the appropriate officials in accordance with the provisions of the laws of the respective countries.

ARTICLE VI

The following offenses are added to the list of offenses numbered 1 to 3 in Article I of the Treaty concluded between the United States and Great Britain on May 18, 1908,¹⁶ with reference to reciprocal rights for the United States and Canada in the matters of conveyance of prisoners and wrecking and salvage, that is to say:

4. Offenses against the narcotic laws of the respective Governments.

ARTICLE VII

No penalty or forfeiture under the laws of the United States shall be applicable or attached to alcoholic liquors or to vessels, vehicles or persons by reason of the carriage of such liquors when they are in transit under guard by Canadian authorities through the territorial waters of the United States to Skagway, Alaska, and thence by the shortest route, via the White Pass and Yukon Railway, upwards of twenty miles to Canadian territory, and such transit shall be as now provided by law with respect to the transit of alcoholic liquors through the Panama Canal or on the Panama Railroad, provided that such liquors shall be kept under seal continuously while the vessel or vehicle on which they are carried remains within the United States, its territories or possessions, and that no part of such liquors shall at any time or place be unladen within the United States, its territories or possessions.

ARTICLE VIII

This Convention shall be ratified, and the ratifications shall be exchanged at Washington as soon as possible. The Convention shall come into effect at the expiration of ten days from the date of the exchange of ratifications, and it shall remain in force for one year. If upon the expiration of one year after the Convention shall have been in force no notice is given by either party of a desire to terminate the same, it shall continue in force until thirty days after either party shall have given notice to the other of a desire to terminate the Convention.

¹⁶ *Foreign Relations*, 1908, p. 397.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed the present Convention in duplicate and have thereunto affixed their seals.

DONE at the city of Washington this sixth day of June, one thousand nine hundred and twenty-four.

WHEREAS it is desirable that uniform regulations should be established by the Government of the United States and the Government of the Dominion of Canada to give effect to the provisions of the treaty;

AND WHEREAS, the following regulations have been agreed upon by representatives of the two Governments and have been submitted to me for approval on the part of the United States:

ARTICLE I

Section 1. The officers authorized to furnish, request and receive information as provided in Article I of the Convention shall be as follows:—For the Dominion of Canada, the Deputy Minister of Customs and Excise, the Chief, Customs-Excise Preventive Service and Collectors of Customs and Excise; for the United States of America, Consuls, Collectors of Customs and United States District Attorneys. In addition, other officers may be designated and authorized, for Canada, by the Minister of Customs and Excise, and for the United States by the Secretary of the Treasury or the Attorney General.

Section 2. Advance or immediate information respecting the clearance of vessels to any port shall be so furnished where there is reasonable ground to suspect that the owners or persons in possession of the cargo intend to smuggle or illegally introduce it into Canada or the United States. It shall be the duty of any such officer of either government having reasonable ground to suspect an intent to smuggle or illegally introduce any merchandise into the other country, immediately to inform by telegraph or telephone, at the expense of the receiving government, the appropriate officer of such government, as provided in Section 1. Arrangements may be made to furnish such information to a specially-named officer when it is deemed advisable to do so.

Section 3. For the purpose of Section 2, reasonable ground to suspect an intent to smuggle or unlawfully to introduce goods or merchandise shall be deemed to exist not only when the officers of the country from which the goods are being conveyed suspect that unlawful operations are contemplated but also when the Minister of Customs and Excise, for Canada, or the Secretary of the Treasury, for the United States, or the duly authorized representative of either, certifies, one to the other, that he has reasonable grounds for believing that such vessel or the owner or possessor of its cargo or of such goods or merchandise is engaged in or about to engage in such unlawful operations.

Section 4. All information furnished under the provisions of this article of the Convention shall be for official use only and may be designated as confidential by the officer furnishing it. The source of all information furnished as confidential shall not be disclosed

without the consent of the officer who furnished it and any officer who violates the provisions of this section will be subject to severe disciplinary action.

ARTICLE II

Collectors of Customs and Excise of Canada and Collectors of Customs of the United States will refuse to clear any vessel in accordance with the provisions of Article II of the Convention. Lists of articles, the importation of which is prohibited and to which it is desired that the provisions of Article II shall be applied, will be exchanged between the Minister of Customs and Excise of Canada and the Secretary of the Treasury of the United States.

ARTICLE III

Section 1. A national of the United States or of Canada desiring to make claim under the provisions of Article III of the Convention shall file a petition with the Minister of Customs and Excise or the Secretary of the Treasury, as the case may be, setting out the facts and making request for the return of the property.

Section 2. The claimant must produce evidence of his ownership and of the absence of collusion on his part in the theft of the property.

Section 3. Upon the submission of satisfactory evidence, the return of the property will be authorized by the appropriate official, provided the claimant pays to the Collector of Customs or Collector or other proper officer of Customs and Excise, as the case may be, all expenses incurred in the seizure and detention of the property and files in writing a waiver and release of all possible claims for compensation and damages incident to the seizure and detention of the property against the Government and any and all Government officers involved.

Section 4. Customs officials of the United States or Customs and Excise officials of Canada will give assistance to the nationals of the other Government by permitting the inspection by such nationals of property under seizure; provided the Customs or Customs and Excise officials are satisfied that such requests for inspection are made in good faith. When such stolen property is identified, such nationals will be furnished, so far as known, with the names and description of persons from whom the property was seized and other persons who have had possession of such property subsequent to the theft thereof.

ARTICLE IV

Section 1. The information to be exchanged under Article IV of the Convention shall be the name, and, where available, the description, Bertillon measurements, fingerprints, photograph, and record, or other relevant information regarding the following persons:

(a) Every person known or suspected to be engaged or about to engage in smuggling or unlawfully importing narcotic drugs from the United States to Canada, or *vice versa*.

(b) Every person arrested for smuggling or unlawfully importing or bringing any narcotic drugs into the United States from Canada, or *vice versa*.

(c) Every person arrested in the United States or in Canada for a serious violation of the narcotic laws of either government, if there is reasonable ground for believing that such person has unlawfully imported or brought in narcotic drugs.

Section 2. This information shall be exchanged between the Head, Narcotic Division, Prohibition Unit, Washington, D. C., and the Chief, Narcotic Division, Department of Health, Ottawa, Canada.

Section 3. If prompt information is necessary to enable the officers of either government to apprehend a person in the act of smuggling or unlawfully importing narcotic drugs, it may be communicated to the appropriate officers of the other government by mail, or, if necessary, by telegraph or telephone, at the expense of the government receiving the information. A report containing the substance of the communication shall be mailed to the officers named in Section 2.

ARTICLE V

Section 1. In case documentary evidence or the testimony of any officer or employee of the United States is desired in Canada under the provision of Article V of the Convention, request therefor will be made by the appropriate officer of the Canadian Department of Justice through the Consul General of the United States at Ottawa, to the Secretary of State, who will transmit the request to the head of the Department or independent organization of the United States Government having such evidence or employing such official. After consideration thereof, the head of the Department or independent organization will make the appropriate order in the premises.

Section 2. In case documentary evidence or the testimony of any official of Canada is desired in the United States under the provisions of Article V of the Convention, request therefor will be made by the proper officer of the Department of Justice to the Secretary of State, who will transmit it through the Consul General of the United States at Ottawa to the Minister of the Canadian Government under whom the documentary evidence is to be found or the officer or employee is employed. After consideration thereof the Minister will make the appropriate order in the premises.

Section 3. Whenever any officer or employee of the United States is required to go to Canada under the provisions of Article V of the Convention, and whenever any Canadian officer or employee is likewise required to go to the United States, transportation from his official station to the place to which he is required to go, or sufficient money to pay the same, shall be furnished to him by or on behalf of the Government requesting his attendance before he leaves his official station. All other expenses required by Article V to be paid by the requesting nation shall be paid in full before he departs from the place at which his testimony was required.

ARTICLE VI

Section 1. If, under Article VI of the Convention, a narcotic agent or other officer of either the United States or Canada desires to convey a prisoner charged with an offense against the narcotic laws of his own Government across the territory of the other Government.

as provided by the Treaty of May 18, 1908 (35 U. S. Stat. Part 2, p. 2035), he may, in having the warrant or process endorsed, or backed, by a judge, magistrate or justice of the peace, or in obtaining the authority of the Secretary of State or of the Minister of Justice, as the case may be, at the expense of his own government, call upon the nearest United States Attorney or the Department of Justice of Canada for advice and assistance.

Section 2. A United States Attorney or the Department of Justice of Canada, so called upon by a narcotic agent or other officer of either Government, will give advice and render assistance in accordance with the law and the Treaty of May 18, 1908.

ARTICLE VII

Section 1. When a shipment of liquors is to be made to Canadian Territory under Article VII of the Convention, a full description of the packages, and contents thereof, will be furnished by Canadian authorities to United States customs authorities at Skagway, Alaska. A second copy thereof will be delivered to and retained by the master of the vessel having such liquors on board for transportation.

Section 2. Said shipment, consisting of the packages as listed and described in the document furnished as required by Section 1, will be locked securely in a separate and safe compartment on the vessel transporting the same from the Canadian port to Skagway, Alaska, and the owners and master of the vessel, under penalties of the law of Canada and of the United States, will be responsible for the safe delivery of said liquors to Skagway, Alaska.

Section 3. Before leaving Canada, said compartment will be placed under Canadian and United States customs seals, and remain under the two seals continuously until the vessel arrives at its destination at Skagway.

Section 4. The shipment will be accompanied on the vessel by one or more guards representing Canadian authorities.

Section 5. After arrival of the vessel at Skagway, Alaska, the seals on the compartment will be broken in the presence of an officer of the United States customs service, the Canadian customs officer at Skagway and the master of the vessel or his representative. The packages of liquor will be checked and will be removed from the vessel under supervision of United States and Canadian customs officers to a car of the White Pass and Yukon Railway. Such car will then be securely locked and placed under United States and Canadian customs seals. A Canadian guard or guards will accompany the car and shipment until it arrives in Canadian territory. Upon arrival at the point of exit from the United States the car will be examined by a United States customs officer and, if the seals are found intact, such officer shall certify to that effect upon the carrier's manifest, allow the car to proceed into Canadian territory, and return to the Deputy Collector at Skagway the mail copy of the carrier's manifest as a certificate of exportation. If the seals are not found intact, the customs officers of the two governments shall prepare a joint report stating the condition in which the shipment arrived at such point of exit, and the shipment shall then be allowed to proceed to destination.

Section 6. If, at Skagway, or at such point of exit, the shipment is not found intact when checked, the authorities of both Governments will cooperate in proceedings to apprehend and prosecute the person or persons responsible for the loss or diversion of the liquor.

Now, THEREFORE, I, Calvin Coolidge, President of the United States of America, considering it expedient and necessary for the enforcement of the provisions of the said Convention of June 6, 1924, that uniform regulations for that purpose be adopted by the two Governments, do hereby approve the foregoing regulations to govern acts of officers of the United States.

CALVIN COOLIDGE

THE WHITE HOUSE,

September 19, 1925.

CHILE

DISINCLINATION OF THE UNITED STATES TO GRANT ASYLUM DURING REVOLUTIONARY CRISIS IN CHILE

825.00/864 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, January 24, 1925—1 a. m.

[Received January 25—7:47 a. m.]

8. At 5 p. m. January 23rd two regiments took possession Moneda,¹ and Altamirano, Nef, Bennett and Gomez Carreño prisoners.² New junta de gobierno being formed headed by Dartnell, inspector general of the Army, and Ortiz Vega, Minister of War, who will ask Navy to designate third member possibly Aceveda. New junta speaking for the Army declares that movement initiated by Army in September was for reform not for reaction and has been betrayed by Altamirano and last junta. It is understood that new junta is favorable to recall of Alessandri³ and immediate holding of constitutional convention. No definite information as to situation outside of Santiago nor as to attitude of Navy. Stones were hurled and shots fired at Union Club tonight. All the regiments in Santiago seem to be in accord and persons sympathetic with movement say that labor unions and university students are enthusiastic in its support and that engineers of Navy and all its youngest officials will give their support. Latter statement is however questionable.

COLLIER

825.00/865 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, January 25, 1925—1 a. m.

[Received 4:03 a. m.]

9. [Paraphrase.] Alfred Houston, local attorney for [the Braden Copper Company], has just come to see me at the request of Carlos Aldunate and two of his civilian colleagues of the recent ministry

¹ The Palace of the Moneda.

² Altamirano, Nef, and Bennett comprised the Junta de Gobierno de Septiembre, the regime which assumed power following the revolution of that month. Gomez Carreño subsequently became Minister of Marine in that regime. See *Foreign Relations*, 1924, vol. I, pp. 357 ff.

³ Arturo Alessandri, Constitutional President of Chile, then in Rome.

which was overthrown yesterday. They want me to call upon General Dartnell, with whom I am very well acquainted, and ask him to take measures to prevent any possible violence being done to Altamirano, Nef, and Gomez Carreño. I replied that I was unable to take such action, at least for the present, because the Acting Under Secretary for Foreign Affairs had informed me that he has just seen the three persons who are detained in the Moneda, that they are being courteously treated and are in good spirits, and that he thought the Army and Navy might adjust the situation today and the three men be released. However, Aldunate and his colleagues entertain grave fears for the safety of the late junta except for Bennett who was not arrested and who seems to be enjoying complete freedom. Personally I do not anticipate any violence although there is considerable possibility of it.

The former Minister for Foreign Affairs is actively in sympathy with yesterday's movement and thinks there is a possibility of violence to the late junta, especially to Gomez Carreño. Kindly instruct me what to do in case any person becomes an actual victim of mob violence or if the life of any person appears to be in danger. I am well acquainted with General Dartnell. [End paraphrase.]

Brazilian Ambassador has left and I understand that Argentine Ambassador also. Italian Ambassador returns tonight from Viña del Mar. Carlos Aldunate and three other civilians members of Cabinet were held in detention yesterday in Moneda for two hours while young Army officer with loaded revolver walked up and down the room holding them virtual prisoners and lecturing to them as to the purpose of military movement and as to its having been betrayed by late junta and its ministry. Aldunate is now in his own house at liberty and has given his word of honor not to leave Santiago. In my opinion he is in no danger.

COLLIER

825.00/368 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, January 26, 1925—1 a. m.

[Received January 27—4:38 a. m.]

12. Situation continues very grave with possibility of civil war or even of a soviet uprising. Navy continues firm in opposition to Alessandri's return and in its demand for immediate release of Nef and Gomez. Many rumors during the day that large part of the Navy would join Army but information from Valparaiso consulate

shows no foundation for these. The consul at Concepcion reports engineers in navy yard Talcahuano favor Army, one cavalry regiment Viña del Mar said to favor Navy and to be ready for embarkation on war vessels which have full steam up. Conditions fixed by Alessandri for his return as published by Associated Press are said to be unsatisfactory to Army. Certain diplomatic colleagues have been informed that arms have been given to the masses and that they are organizing Red companies. Movement in Army is absolutely controlled by young officers mostly captains and lieutenants. General Dartnell supposed to have no real power. Many of the young leaders are extremely radical in their sentiments. Altamirano, Nef, Gomez are considered by many as being held as hostages and very grave fear for their safety is still expressed, also that Dartnell has assured many diplomats that he can guarantee safety of detained and also protection of all foreign interests. Errazuriz, Unionist candidate for the Presidency, has been seized by Army and is a prisoner in barracks. Attempts have been made to arrest other very prominent Unionists. Morning and evening papers have stated that a North American squadron was on its way to Chile to protect American interests.

[Paraphrase.] I have not been able to trace the origin of that rumor. In the present situation I do not think it necessary to send ships to Chile but highly desirable to send some very close to Chilean ports because complete breakdown of Army and Navy discipline and manifestation of mob violence justify fear of dangerous situation. [End paraphrase.]

COLLIER

825.00/365 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, January 26, 1925—4 p. m.

3. Embassy's telegram No. 9 dated January 25, 1 a. m. It is the understanding of the Department that the members of the late regime in Chile are under guard by order of the present authorities and that if their lives should be endangered it would be by the action of the present authorities or possibly by a mob overcoming the guard established by the present authorities. The Department feels, under these circumstances, that for you to take any action in their behalf would not be justified, and you are instructed to refrain from doing so.

HUGHES

825.00/365 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

WASHINGTON, January 27, 1925—1 p. m.

4. Supplementing the Department's telegram No. 3 of January 26, 4 p. m. the following is the Department's position with regard to asylum:

The Government of the United States respects the principle that a sovereign state enjoys the exclusive right to control and administer justice within its territory, and hence that it should not be resisted or thwarted by an American diplomatic officer when its authorities demand the surrender for purposes of prosecution of any person charged with crime who is not, by reason of some connection with the mission, to be deemed exempt from the local jurisdiction. Because the granting of shelter is oftentimes, if not commonly, accorded with a view to withholding an individual from that jurisdiction such action cannot be regarded with favor, save under very exceptional circumstances. As Secretary Root declared in a note to the American Minister to Haiti on April 11, 1908, "instructions have made it clear that this Government does not recognize a [*the*] so-called right of asylum" (*Foreign Relations*, 1908, 435). The Department of State does not countenance "any attempt knowingly to harbor offenders against the laws from the pursuit of the legitimate agents of justice."

While the Department has at times approved of the yielding by an American diplomatic officer of temporary shelter to an individual when the safety of his life was threatened as by mob violence in a country where conditions of great disorder prevailed, the significance of such an exceptional situation should not be misconstrued. It is based on the theory that disorderly conditions productive of mob violence, for example, have so impaired the power or disposition of local authorities to administer justice as to render inapplicable for the time being the principle above set forth. An American diplomatic officer must therefore exercise utmost discretion in determining whether such extraordinary conditions exist and continue to exist throughout the period of which shelter is sought or granted; or whether on the contrary any shelter which he is asked to accord is designed rather to thwart the common exercise of jurisdiction by the territorial sovereign. That a refugee should be sought by his political enemies for an essentially political offense would not necessarily bring the case within the exception noted, at least if such an offense were one made punishable by the local law, and if there was no reason to believe that the rights accorded an accused person for purposes of defense would not be respected.

An individual fleeing before a mob might be given temporary refuge in an American mission, if he entered the same in the course of flight, until the mob dispersed or until the mission could turn him over to the authorities of the country, *de facto* or otherwise, who were in a position to protect him from similar out-breaks of mob violence. The fact that a person already in the custody of the local authorities is in danger of mob violence would not suffice to justify intervention by American diplomatic officers. Should the individual break away from the authorities in the face of a mob attack and seek refuge in an American mission he might be given refuge until the authorities were again in a position to resume custody of the fugitive and accord him protection from mob violence.

The foregoing principles will guide you hereafter in the relevant situations with which you may be confronted.

HUGHES

825.00/368 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, January 27, 1925—5 p. m.

5. Embassy's telegram number 12 dated January 26, 1 a. m., last paragraph. It is the feeling of the Department that the presence of American war vessels in Chilean ports would cause a most unfavorable impression. The Department would only consent to send them if American lives were in actual danger. The Department has no desire to interfere in any way with the Chileans in their efforts to work out their present difficulties by themselves. Having received no evidence from you to the contrary the Department does not anticipate that American citizens will be molested during the present troubles. If American war vessels were to be sent nearer to Chile than they are now at their present station in the Panama Canal they would have to be sent to Peruvian ports. This is considered inadvisable in view of the present relations between Chile and Peru.

HUGHES

825.00/372 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, January 27, 1925—11 p. m.

[Received 11:58 p. m.]

13. Acute crisis appears to be settled. After day of greatest anxiety Army and Navy signed an agreement constituting a new junta pre-

sided over by Emilio Bello Codecido, former Minister of Foreign Affairs and Interior, General Dartnell and Admiral Ward. Alessandri declared Constitutional President and to be asked to return; new constitutional convention to be called at once and all political prisoners to be immediately released.

COLLIER

825.00/386 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, February 12, 1925—5 p. m.

[Received 8:40 p. m.]

19. Due to imminent fear of revolution and mob violence, the superior of a religious order founded in Spain and composed almost wholly of Spanish monks has been here and at the consulate general at Valparaiso asking protection for all its property in Chile on the ground that the title is in the name of an American citizen who it seems is a monk of this order.

[Paraphrase.] I replied that my personal opinion was that such an attempt to secure the protection of the Government of the United States was improper. Please instruct me. [End paraphrase.]

An order of nuns founded in Germany maintaining a school here in which there is one American nun duly registered in our consulate general sent a delegation to me asking for protection and for permission to hoist American flag on their building. Request was denied but the American nun was assured personal protection if unlawfully attacked or threatened.

Situation continues very critical. There is constant intrigue to overthrow present junta. Labor leaders who have openly formed republican guard to help Army to sustain junta and bring back Alessandri assembled several thousand enrolled members in front of Moneda night before last ready to fight. Public meetings are being arranged by them in all parts of the country for Saturday night. Country is seething with social unrest. Latest development is organization of rent payers in all cities to demand lower rents and better housing and resist landlord's demands and even their appeals to police for help and protection.

[Paraphrase.] A priest just called on behalf of the nuncio and asked if I would receive the nuncio and secretary in case they were attacked. I told him there was no apparent danger now and that if they were attacked the diplomatic corps would undoubtedly take what action was expedient for its members. [End paraphrase.]

COLLIER

825.00/386 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, February 14, 1925—5 p. m.

6. Embassy's telegram number 19 dated February 12, 5 p. m. If, as your telegram appears to state, the property which is mentioned is actually owned by the order and only the mere title to the same is recorded in the name of the American monk, do not extend protection. If, however, the American is the actual owner of the property, inform the Department when he acquired the property and when the title to the same was recorded in him.

HUGHES

825.01/41 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

WASHINGTON, March 19, 1925—6 p. m.

11. Your 28, March 10, 1 p. m.⁴ Upon Señor Alessandri's resumption of office formal relations may be maintained with him. No formal communication or special action necessary in this connection nor should any comment or explanation in so doing be made.⁵

KELLOGG

THE TACNA-ARICA QUESTION

(See pages 304 ff.)

⁴ Not printed.

⁵ Señor Alessandri resumed the functions of Constitutional President on March 20 (file No. 825.001A12/27).

CHINA

RENEWAL OF CIVIL WAR IN NORTH CHINA AND REFUSAL BY THE UNITED STATES TO LEND ITSELF TO A POLICY OF INTERVENTION

893.00/5901 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, January 2, 1925—3 p. m.

[Received 6:50 p. m.]

1. 1. Conditions both military and political are unsettled and obscure. The autumn's fighting eliminated Tsao Kun, Wu Pei-fu¹ and last week also Chi Hsieh-yuan;² but the Chihli Party which is not a political but a military group is, though disorganized, still a power in the Yangtze Valley and must either be overcome or conciliated by Chang Tso-lin³ if he is to unify even North China. I am reliably informed that Chang himself has completed plans to return to Mukden but that Minister of Communications, who as I know positively has gone to Tientsin, was sent there by Chief Executive to persuade Chang to remain. Chang's forces have been moving through Tsinanfu during the last week and 22 troop trains have continued southwards beyond Houchowfu [*Hsüchowfu*], destination unknown.

2. Chang flushed with his first victory snubbed and alienated Feng Yu-hsiang⁴ whose strength he underestimated. Feng is sulking in the Western Hills, sending in repeated resignations to the Chief Executive proclaiming pacific intentions, but remaining a military and political mystery. He controls Peking and has under him 60,000 troops of whom half according to military attaché are well equipped and supplied. Feng and the undefeated Yangtze *Tuchuns* today share the military power of North China with Chang.

3. If Chang does not support Chief Executive with adequate military forces the Provisional Government cannot long endure. That Government represents the triumph of Japan in Chinese politics, as

¹ For the defeat of Wu Pei-fu and overthrow of President Tsao Kun, see *Foreign Relations*, 1924, vol. I, pp. 361 ff.

² See telegram No. 480, Dec. 13, 1924, from the Chargé in China, and footnote, *ibid.*, p. 408.

³ Virtual ruler of Manchuria, who had established his headquarters at Tientsin following the civil war in the autumn of 1924.

⁴ Inspector General of the Chinese Army, who seized Peking in October 1924 and ended civil war between forces of Wu Pei-fu and Chang Tso-lin.

the Government resulting from *coup d'état* of October 23 though nominally Kuomintang may be regarded as a triumph for Soviet Russia. If Marshal Tuan⁵ should be forced out, the next regime would probably be headed by Sun Yat-sen⁶ and supported by Feng with a platform denouncing "unequal treaties" which would commend it to Karakhan.⁷

4. Sun Yat-sen after a long delay in Tientsin arrived in Peking December 31st afternoon by special train. He was met at the railway station by officials and by a crowd of his followers. It is agreed by all who saw him that his sickness has been real and not feigned. He issued at the station a short announcement in the dialect of the common people, which the Chinese secretary translates as follows:

"To the masters of the Republic of China. I am certainly gratified for the welcome accorded me by all you gentlemen on my arrival. This time I have not come to fight for a position for myself nor for power. I have come especially to save the country in cooperation with you gentlemen. Thirteen years ago I with all you gentlemen overthrew the Manchu Government. This was done in order to obtain freedom and equality for the people of China but the freedom and equality of the people of China had already been sold to the different nations by the Manchu Government through the unequal treaties. As a result we still occupy the position of a secondary colony. Therefore we must save the nation. The principles involved in saving the country are numerous and there are many methods. It will be very easy to accomplish it. I had the intention of speaking to you gentlemen about these things in detail but as I am now sick it will be best to defer this until I am well. I wish to thank you for your kindness. (Signed) Sun Wen."

6. Chief Executive issued mandate December 24th promulgating regulations for the reorganization conference whose purpose is stated to be the solution of the complicated situation and the discussion of constructive plans including the organization of a second citizens' conference, reforms of the military system, financial liquidation, et cetera. This reorganization conference will, it is believed, be composed of militarists and politicians and the scheme receives little popular support and arouses little interest. Sun Yat-sen has made political capital for himself by demanding a popular conference and is sending emissaries to the provinces to explain his views.

7. It is expected that Sun will now hold conferences directly or indirectly not only with Chief Executive but also with Feng and the other leaders of the *coup d'état* and also with Karakhan. Sun will want to be foremost and will not be particular about platform. He would find great opposition if he should attempt to return to Canton.

⁵ Provisional Chief Executive and Prime Minister of China.

⁶ Leader of the Kuomintang Party.

⁷ Soviet Ambassador in China.

Consul at Swatow telegraphed December 30th:

"December 30th, 9 a. m. Referring to my telegram of December 5, 3 p. m. General Chen Chiung-ming resumed office on December 27 as commander in chief [of] the Kwangtung armies promising to take field at once against Red troops in Canton. Chen alleges he has been promised strong financial support by the Cantonese merchants and has raised \$400,000 locally. General Lin Fu has apparently finally agreed to support campaign against Sun Wen but it is believed his allegiance to Chen remains very doubtful. General Lin reported to be opening hostilities against Sun forces in Kiangsi."

[8?] Soviet propaganda seems to have taken an anti-Christian turn during these Christmas holidays.

Consul General at Canton telegraphs as follows December 29:

"December 29, 4 p. m. Considerable anti-Christian propaganda in Canton during the holidays including speeches by former governor and other politicians. Several American mission schools annoyed by agitators but no serious disturbance. Report follows by post. Department was not informed."

9. Similar agitation against Christianity in Chekiang Province; in Hangchow one anti-Christian demonstration was held in which churches were denounced as tools of foreign imperialism and capitalism; at Ningpo there was a violent campaign organized by an "anti-Christian committee" of which the following is typical:

"Since the invasion of Christianity in China thousands of men and guns have followed on the heels of the missionaries who come to us clad in black gowns and carrying banners of evangelistic volunteers. Many ports have been yielded; concessions have been granted and millions of dollars of indemnity have been paid. So we must stand against Christianity because of its relation to imperialism."

10. If there has been any increase of antiforeign feeling there is no evidence of any hostility to foreigners. Train robbers (see my telegram number 506, December 31, 3 p. m.)^a probably confined themselves to foreigners to secure nonintervention of Chinese and in expectation of larger funds, though Military Governor Chihli Province tells consul general at Tientsin robbery was an attempt to discredit Fengtien regime. Governor declares every effort is being made to apprehend culprits and if not successful he will make himself personally responsible for the losses besides punishing responsible officers in the section where the robbery occurred.

Repeated to Tokyo.

SCHURMAN

^a Not printed.

893.00/5942 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, January 13, 1925—8 p. m.

[Received January 13—9:35 a. m.]

22. My telegram number 14, January 12, 4 p. m.¹⁰ Announcing his departure from Tientsin for Mukden, Chang Tso-lin made following significant statement: "All my troops will also be instructed to return to Mukden successively."

SCHURMAN

893.00/5947 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, January 15, 1925—5 p. m.

[Received January 15—noon.]

23. 1. I sat beside the Chief Executive yesterday for 2 hours at and after luncheon given to half a dozen chiefs of mission and had opportunity to talk with him alone and also in company with my British colleague on the present situation. He professed complete confidence that there would be no more fighting in the Yangtze provinces and stated, as though it were very important and reassuring, that 19 out of 22 provinces had accepted invitations to his rehabilitation conference.

2. That conference however is the subject of constant attack by the Kuomintang as undemocratic, useless, and completely under the control of Marshal Tuan.

3.* One of the ablest intellectual leaders of the Kuomintang Party and a close friend of Dr. Sun talked with me here yesterday for an hour and a half with great frankness and apparent sincerity. He said that Tuan was sitting on a volcano but did not know it; that Dr. Sun if he were well enough would soon come to the Presidency but that no individual could do much for China, which was too vast, complex, and chaotic for human control, and that intelligent Chinese now were simply watching events with fatalistic resignation. The same fatalistic view of China's development and the futility of foreign efforts to make any impression upon it was expressed privately by my Belgian colleague, Everts, who has been here several years, on leaving Peking in December for his new post as Ambassador to Germany.

4. But when I compare the China I saw 25 years ago with the China of today I am profoundly convinced that many important

¹⁰ Not printed.

salutatory [*salutary*?] changes have been effected here whether intentionally or not through the influence of foreign sentiments, ideas, science, inventions, industrial organization and economic and political institutions.

SCHURMAN

898.00/5950 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, January 16, 1925—1 p. m.

[Received January 16—8:30 a. m.]

26. My 18, January 13, 4 p. m.¹¹ Following from American consul general, Shanghai:

"January 15, 11 p. m. United States and other powers landed sailors about 4 p. m. Americans took position in conjunction with French as guards of interned Chinese soldiers at Haig reserve school. Some two hours later, I am informed by the French consul general, one interned Chinese was killed and two wounded by gunfire of American sailor. In company with Jacobs and Graham made investigation by interviewing French and Americans on guard but am not able as yet to report who responsible for casualties, though French state positively caused by Americans. Have asked American Navy to investigate further and report tomorrow. Not repeated to the Department."

SCHURMAN

898.00/5952 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, January 18, 1925—11 p. m.

[Received January 18—9:15 p. m.]

28. 1. At noon January 17th British Minister came to confer with me in regard to a telegram dated January 16, 8 p. m., he had just received from British Acting Consul General Pratt, Shanghai, of which pertinent portion was as follows:

"The China Association representing leading British interests in Shanghai have made representations to me that measures should be devised to prevent a recurrence of fighting in immediate vicinity Shanghai. Various proposals have been made involving the sending to Shanghai of an international military force. The grave difficulties attending despatch of such a force are obvious, nevertheless I am of opinion that the time has now come when this step should be taken. Result of next conflict may well be that large bodies of soldiers may wish to enter Settlement but may refuse to surrender their arms.

¹¹ This and other telegrams (not printed) reported the details of military conflicts and looting in the vicinity of Shanghai.

Specific measures taken is a military question but my own opinion is that it would probably suffice to occupy two strategical points, namely, North Railway Station and Lunghua Junction, thus denying use of loop line to Chinese troops."

2. I pointed out to my colleague that this telegram (1) did not state that the present international naval forces and local volunteers were insufficient to protect life and property in the settlement, and (2) did not claim that the military objective indicated and military measures suggested had the approval of any military or naval authority. I also said that the course proposed by Pratt and his China Association was an act of forcible intervention on Chinese territory. I declared emphatically that my Government was opposed to such a policy and that I would not even consider it unless the naval authorities reported that it was imperative necessity for the protection of American and other foreign lives in Shanghai. The British Minister shared these views and so telegraphs Pratt January 17.

3. In case the Chief Executive succeeds his policy of detaching Sun Chuan-fang from the alliance with Chi Hsieh-yuan under which aggressions [*aggressive*] hostilities against Lu Yung-hsiang were begun in the neighborhood of Shanghai, it is probable that Chi will be defeated and in that event his soldiers might get out of hand, might refuse to give up their arms and might loot Shanghai. But the alternative is equally conceivable, namely, that these soldiers would make no trouble or if they did they would be restrained by the victorious forces of Lu or Sun.

4. Foreign intervention in the way proposed would be a benefit to the present Peking Government and the Anfu Party and disadvantageous to Chi whom it would shut off from the arsenal. It is not improbable that it would be favored by the Japanese. Among the British and some other foreign merchants in Shanghai there has been always strong element in favor of military intervention in China and they may be utilizing the present situation to get foreign governments committed to that program.

5. The following telegram, dated January 17, 3 p. m. from Cunningham received this morning:

"The senior consul is addressing a protest to Marshals Chi and Sun against the recent hostilities on the border of the French concession which were a grave menace to foreign lives and property, and a demand that no Chinese troops remain within rifle shot of foreign-inhabited area in the future and that any such troops within such radius at present be removed at once. This is the result of meeting this morning of consuls general for Italy, United States, Japan, the Netherlands, Great Britain, and France.

That an international military force should be sent immediately to Shanghai to ensure compliance with this demand, which is essential

for security of foreign settlements, was the unanimous opinion of the meeting."

Foregoing will probably be considered by diplomatic body at a meeting which had already been brought up [*called for?*] January 19th.

6. I have telegraphed Consul General Cunningham as follows:

"January 17, 10 p. m.

1. Your January 17, 3 p. m. brings forward a very serious and important proposal and raises a number of points upon which I require information before reaching any conclusion: First, what do you mean by 'international military force'? Do you mean a force composed army units or an increased naval landing force? Second, is your last paragraph a recommendation of yours or is it advance information of a recommendation which the senior consul intends to address to the [consular body?]? Third, if by 'international military force' you [mean] army forces, why do you consider that naval landing forces supported by their ships are not adequate to cope with any situation as has been the case in the past, notably that of some days ago and of last September-October? Fourth, were the protest and demand mentioned in your first paragraph made after consultation with the senior foreign naval officers present or were they made on the judgment alone of the consular officers concerned? Also the same information relative to your statement in last paragraph that compliance with the consular demand is essential for security foreign settlement. Fifth, what Chinese forces are now within the radius you define? Sixth, in your meeting who took the lead and why, if such information available? What was the attitude of the different consuls general?

2. I assume you realize the extreme seriousness of your proposal if it entails landing of international army units and their occupation Chinese territory while the powers concerned are at peace with China.

Consult with Admiral McVay and telegraph me fully at once in reply to my questions including any other information you may consider necessary or helpful in enabling me to reach a decision concerning any recommendation I may [make?] to the Secretary of State."

7. We now have *Sacramento* and two destroyers at Shanghai. *Barker*, *Borie* and *Whipple* with 2 officers and 100 marines left Cavite January 17th and are due at Shanghai January 20th. Admiral McVay now at Shanghai stated at 1 o'clock today:

"Six destroyers sufficient for present needs. Subject to agreement Tsingtau authorities 10,000 interned soldiers will be sent there today and tomorrow on board foreign vessels. Conditions Nanking, Chinkiang, Shanghai quiet but with general feeling of unrest."

British have two large cruisers and also river gunboats at Shanghai.

8. There are large concentrations of Chinese troops in and near Peking, Tientsin, Hankow and Nanking as well as at Shanghai.

9. I intend sending an assistant military attaché to Shanghai by the first available steamer. Train service very irregular.

SCHURMAN

893.00/5953 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, January 19, 1925—8 p. m.

[Received 8:41 p. m.]

29. My 28 January 18, 11 p. m. Admiral McVay reports as follows today:

"1. The senior naval officers decided that the force available is sufficient to keep defeated soldiers out of the concession and would do so by using such force measures as the occasion required. Eighteen hundred of Sun troops left for Soochow this morning. A large number of Chi troops are at Wuhsi [*Wusih?*] which has been looted and on each side of the town the railroad is out of commission and much damage done to the rolling stock. The first report was incorrect and the board of investigation has cleared our sailors of any responsibility for the shooting of the Chinese . . .

SCHURMAN

893.00/5958 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, January 21, 1925—1 p. m.

[Received 4:35 p. m.]

35. Following from American consul, Shanghai:

"January 14, 5 p. m. At meeting today of consuls general for Japan, Holland, France, Italy, Great Britain and United States it was unanimously decided to request the diplomatic body to authorize consular body to forbid right of asylum to all Chinese military leaders so long as conditions are as unsettled as at present. Military leader is understood to be any officer with rank of general now or recently having active command of troops. If permission to carry out this policy is granted it is the intention of the consular body to order all of leaders within Settlement to depart as soon as possible and in future the entry of such persons will be prevented."

2. Following resolution drafted by me was adopted by Heads of Legation, diplomatic body meeting of January 19th, telegraphed to senior consul Shanghai,

"Resolved, that with a view to maintaining the neutrality of Shanghai and for the protection of foreign life and property

therein the consular body are authorized, as an emergency measure and during the continuance of fighting and the presence of bodies of troops near Shanghai (but no longer) and without referring the matter to the diplomatic body, in their discretion to expel from the International Settlement (or to refuse admission thereto) Chinese military leaders (being any officer with the rank of general now or recently having active command of troops) and political chiefs who serve the internal affairs of such militarists who may, in the opinion of the consular body, use the Settlement for fitting out military expeditions or otherwise as a base of military operations or for political agitation.

"The French Minister is sending similar instructions with regard to the French Concession."

SCHURMAN

893.00/5963 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, January 24, 1925—11 p. m.

[Received January 24—1:45 p. m.]

45. My telegram number 28, January 18, 11 p. m. January 19 sent military attaché himself to Shanghai. From his report by radio January 23, 6 p. m., I extract following:

1. "Have had consultation with Cunningham and Admiral McVay. Confident present force available from foreign war vessels and local volunteers ample to handle present conditions or any that may arise."

2. "I believe Admiral McVay and his colleagues have situation thoroughly in hand and recommend no action be taken. I believe recommendations as to foreign military forces result pressure on consuls by business interests. This also opinion of Admiral McVay."

SCHURMAN

893.00/5965 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, January 27, 1925—3 p. m.

[Received January 27—12:30 p. m.]

47. Following radiogram dated Shanghai, 4:30 p. m. January 26th, from Admiral McVay.

"... Have detailed a destroyer to anchor near the steamer *Belgenland* off Woosung with 400 American tourists aboard. Yesterday General Wang sent a letter stating that Woosung fort would not fire on foreign vessels during daylight only. I have sent a letter to the senior naval officer present that, while this would probably cause no interference with foreign shipping, my Government was on record

as desiring Shanghai kept open to the sea and that I would convoy any American vessels desiring to leave or English [*enter?*] during darkness. Only reported this morning that on Saturday another British river steamer was held up, searched, and two Chinese passengers removed."

SCHURMAN

893.00/5967 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, January 28, 1925—1 p. m.

[Received January 28—10:15 a. m.]

49. My 47, January 27, 3 p. m. Following extract from radio-gram dated 3:20 p. m., January 27, from Admiral McVay:

Senior naval officers met and agreed following message to *Carlisle* at Woosung: "Send an officer together with an officer from United States destroyer at Woosung to inform commanding officer, Woosung fort, that senior naval officers cannot accept the wireless warning issued last night, Monday, January 26th, closing the forts during the night constituting an interference with foreign shipping. Senior naval officers will, if necessary, escort foreign vessels. Also inform him that search of any vessels including Chinese inside Whangpoo River cannot be tolerated. Limit of the Whangpoo River being [beacon] on outer end submerged breakwater. Inform him that if foreign vessels are interfered with, we are prepared for making immediate reprisal."¹²

SCHURMAN

893.00/6063

The Minister in China (Schurman) to the Secretary of State

No. 2740

PEKING, January 29, 1925.

[Received March 21.]

SIR: I have the honor to refer to my telegram No. 26 of January 16, 1 p. m. relative to the interned Chinese soldiers in Shanghai and to the report that one interned Chinese had been killed and two wounded by one of the American guards.

As an indication of the procedure which a certain section of the foreign community in Shanghai are advocating in dealing with the complex situation there, I have the honor to transmit herewith enclosed clippings of an excerpt of an article and an extract of a letter to the *North China Daily News* which appeared in the January 17th edition of that publication.¹³ The article proposes the estab-

¹² The Minister in China in telegram No. 50, Jan. 29, 1 p. m., reported that Admiral McVay telegraphed on January 28: "Woosung fort has agreed to abide by notice sent yesterday." (File No. 893.00/5972.)

¹³ Not printed.

lishment by the interested powers of a neutral zone outside the settlement, and in the letter it is suggested that each of the powers send to Shanghai a force of 1000 men for the protection of the International Settlement. The opinion is expressed that the sending of five destroyers to Shanghai from Manila would not prove particularly effective.

The American community in Shanghai is quite as insistent in its demands for protection as the British, and I venture, therefore, to request the Department's instructions as to the policy which will be adopted by our Government in the eventuality of a repetition of a situation such as has recently prevailed in Shanghai.

I have [etc.]

JACOB GOULD SCHURMAN

893.00/5976 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, January 31, 1925—11 a. m.

[Received January 31—7:32 a. m.]

56. 1. Following radio dated 1:40 p. m. January 30th from Admiral McVay:

"General Chang Tsung-chang¹⁴ with about 10,000 troops has arrived Shanghai and taken charge. State his force will not go beyond Lunghua. Local civil officials are being changed. Practically no disturbance Shanghai and vicinity. Am leaving for Hankow Saturday night. Consider it advisable that present force less *Stewart* remain in Chinese waters for a while."

2. Chang Tso-lin is now master of the eastern section of North China from Harbin to Shanghai.

3. Military Attaché Barnard leaving Shanghai for Peking today.

SCHURMAN

701.0093 D 34/734

*The Netherlands Minister in China (Oudendijk), Senior Minister, to the American Minister (Schurman)*¹⁵

Circular No. 30

PEKING, February 5, 1925.

Subject:—Situation in Shanghai.

Referring to Circular No. 21¹⁶ the Senior Minister has the honour to circulate herewith among his Honourable Colleagues the translation of a Note, dated February 4th, which he received from the Wai

¹⁴ Commander of detachment of Chang Tso-lin's Manchurian army.

¹⁵ Copy received by the Department on April 6.

¹⁶ Not printed.

Chiao Pu in reply to his Note of January 27th,^{16a} on the subject of the situation in and around Shanghai.

A copy of this translation has been sent to the Senior Consul in Shanghai.

[Enclosure—Translation]

*Note From the Wai Chiao Pu to the Netherlands Minister
(Oudendijk)*

PEKING, February 4, 1925.

MONSIEUR LE MINISTRE: I have the honour to acknowledge the receipt of Your Excellency's Note, dated January 27th, to the effect that renewed hostilities between Chinese military leaders again threaten the lives and properties of the foreign residents, and requesting, in the interest of all the inhabitants, that the strictest order be given by telegraph to the authorities in Kiangsu province that no troops be allowed to come within the neighbourhood of the foreign habitations in or near the foreign Settlement and Concession, and expressing the hope that the Chinese Government assumes responsibility for the protection of foreign lives and properties and will not fail to maintain normal conditions in and around Shanghai.

In reply I have the honour to inform Your Excellency that I have duly transmitted the contents of this Note to the Office of the Chief Executive with the request that the necessary instructions be given by telegram to the Senior military officers in Kiangsu province.

Hoping that Your Excellency will be good enough to inform the other Foreign Ministers in Peking of the above, I avail [etc.]

SEAL OF THE WAI CHIAO PU

893.00/6009 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, February 5, 1925—noon.

[Received February 5—6:50 a. m.]

59. On January 15th Tuan issued mandates ordering conversion Shanghai Arsenal to industrial uses and on ground Shanghai is important commercial port ordering that henceforth no troops nor military organizations should be located there.¹⁷

The consular body Shanghai has now requested the foreign ministers to take steps to induce the Chinese Government to dismantle the Woosung forts and evacuate troops there.

^{16a} Not printed.

¹⁷ The consul general at Shanghai in despatch No. 3587, Dec. 1, 1925, reported that the arsenal had been reopened by Chekiang troops (file No. 893.00/6589).

Does the Department desire me to join in a suggestion or request to the Chinese Government in line with consuls' request? Please telegraph instructions as soon as possible.

SCHURMAN

893.00/6009 : Telegram

The Secretary of State to the Minister in China (Schurman)

WASHINGTON, February 7, 1925—3 p. m.

19. Your 59, February 5, Noon. The Department notes with gratification the decision of the Chinese Government to convert the Shanghai Arsenal and to take other measures designed to safeguard the commercial interests centered at that port. With respect, however, to the proposal that the foreign ministers join in a suggestion to the Chinese Government to dismantle the Woosung forts and evacuate the troops there, the Department does not feel that it should depart from its past policy in matters of this kind and it cannot therefore authorize you to join in representations of the character described. In this connection, you are referred to the Department's telegram No. 184, June 29, 5 p. m., 1921.¹⁸ See mail instruction February 3.¹⁹

HUGHES

893.00/6082 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, March 12, 1925—11 a. m.

[Received March 12—5:33 a. m.]

102. Sun Yat-sen died at 9:30 this morning.

SCHURMAN

893.00/6092 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, March 21, 1925—3 p. m.

[Received March 21—1:50 p. m.]

120. Chang Tso-lin, March 17th, summoned British and American consuls²⁰ to interview and according to American consul's written report "made it plain that he was determined first to oust Feng, Hu and Sun;²¹ second, that he and Wu Pei-fu were on excellent terms;

¹⁸ *Foreign Relations*, 1921, vol. I, p. 509.

¹⁹ Not printed.

²⁰ At Mukden.

²¹ Hu Ching-yi and Sun Yu-eh, lieutenants of Feng Yu-hsiang.

and, third, that hostilities would start in the very near future. Further, more as an intimation, that he himself would establish the next government in Peking."

Consul adds small local coin currency "depreciating for some time and in the past few days the drop in the value of this currency has been quickened considerably. The symptoms are the same as were present last autumn just before the outbreak of hostilities between Wu and Chang."

Chang informed consuls he was reorganizing his army and expected within a month "a large consignment of arms and ammunition at present en route from Europe."

Consul believes it is Chang's intention "once he overcomes Feng in the spring to install himself as the ruler of China." Both consuls surmise that Chang's reason for the interview was that he "was probably looking forward to the time when the question of the recognition by the foreign powers of his government with himself as head in Peking would come; he would not want to be in the position of not being granted recognition, after he had gone to so much trouble."

I believe it inevitable that Chang should fight it out before long with Feng. Probably his motive in sending for the consuls was (1) to feel out how much moral support he might get from their countries in his warfare against what he calls the hosts of Bolshevism, and (2) to ascertain by subsequent percussions what were the relations of their countries with Feng and his military associates. The military attaché on the basis of reports from Mukden, etc., does not expect fighting in the immediate future.

SCHURMAN

893.00/6109

The British Ambassador (Howard) to the Secretary of State

No. 309

WASHINGTON, March 27, 1925.

SIR: Information has been received by His Majesty's Government which leads them to fear that civil war on an extensive scale may again break out in the near future in North China, and that the rival forces are likely to be commanded on the one side by Chang Tso-Lin and on the other by Feng Yu-Hsiang and his associates. I need hardly emphasize the deplorable results which would follow any such outbreak and the serious damage which would be caused to the country in general and its arteries of transportation in particular.

In these circumstances, His Majesty's Ambassador at Tokio has been instructed to ascertain from the Japanese Government, as the

Great Power most directly concerned, whether they desire to make any proposals with a view to international consultation or the use of diplomatic pressure upon the rival Chinese groups so as to prevent the hostilities now threatened. It appears to His Majesty's Government that this is an opportune moment for Japan to submit constructive proposals calling for joint pacific action, and it is scarcely necessary to add that any such suggestions emanating from the Imperial Government would both carry great weight with and would be warmly welcomed by Mr. Secretary Chamberlain.

In furnishing you with the substance of the instructions which have been sent to Sir C. Eliot, I am directed to solicit the cooperation of the United States Government in this important matter and to say that His Majesty's Government would appreciate an early expression of their views upon the questions dealt with in this note.

The situation which unhappily seems likely to arise in China has also been brought to the notice of the French Government, to whom the attitude of my Government has been made known.

I have [etc.]

ESME HOWARD

803.00/6109 : Telegram

*The Secretary of State to the Minister in China (Schurman)*²²

[Paraphrase]

WASHINGTON, March 27, 1925—5 p. m.

56. Department today received from British Embassy following note:

[Here follows text of note printed *supra*.]

Please send me as soon as possible your comments on this proposal. At present it is my opinion that it would not be wise for us to join in a request to the Japanese Government to offer suggestions for united peaceful action, as it would rather appear to commit us to join in such action if a plan should be formulated by Japan. I somewhat fear that antiforeign feeling in China would be aroused by such a move. This matter should be carefully considered by you.

Repeat for information to Embassy in Tokyo as our No. 35.

KELLOGG

²² See last paragraph for instructions to repeat to Tokyo as No. 35.

893.00/6109 : Telegram

The Secretary of State to the Ambassador in Japan (Bancroft)

[Paraphrase]

WASHINGTON, March 28, 1925—noon.

36. Our 35 yesterday, quoting British note, repeated to you from Legation in China.

Telegraph as soon as possible any pertinent information you may have and also your opinion of proposal. Department's course has not been definitely decided as yet, so do not make any inquiry of Japanese officials.

KELLOGG

893.00/6110 : Telegram

The Minister in China (Schurman) to the Secretary of State

[Paraphrase]

PEKING, March 29, 1925—3 p. m.

[Received 6 p. m.]

127. Department's telegram No. 56 of March 27, 5 p. m.

1. Frequently and recently I have warned the Department that further fighting will inevitably take place in China.

2. For the last three years the grounds for the action now proposed in the first paragraph of the British note have existed not less flagrantly in substantially the same form with only slight change of names. The Chinese have suffered terribly during all this time and foreign trade has been greatly handicapped. Transportation by railway was almost completely paralyzed from September 1924 to February 1925. The Peking-Mukden, Tientsin-Pukow, and Shanghai-Nanking lines, in which controlling financial interest is British, were among the railways included.

3. The statement in the British note that Japan is the great power most directly concerned, is not true, the British standing foremost in the commercial interests for which all nations alike cultivate China. The leading position of Japan is true only in respect to the imperialistic position which has been acquired forcibly in Manchuria by the Japanese. The Soviet Union is a formidable rival in this respect as well as in geographical proximity. I believe that this British proposal reestablishes in effect the Japanese contentions as to her dominant position in relation to China which was crystallized in the Lansing-Ishii Agreement²³ which the Washington Conference

²³ *Foreign Relations*, 1917, pp. 264-265.

happily canceled,²⁴ or at least that it offers an opportunity to reestablish these contentions.

4. Probably railway construction in China and the development of commerce are not the chief motives of the British Government. Since the World War, Great Britain is more than ever dependent upon foreign trade for its economic life. Owing to military and political disorders the Chinese market has come far short of the expectations of the British financial and trading community in Shanghai and the treaty ports. Japan is as much interested in advancing her Chinese trade which has suffered both from general causes and from boycotting. To appeal to both the trading and imperialistic instincts of the Japanese is a clever play on the part of the British Government. There is reason to expect cooperation by France because of French policy toward China. Because of our "hands off" policy, American cooperation is the least to be expected.

5. The British have another motive. Great Britain has been unpopular with the Japanese and has been the object of constant criticism from them ever since the Anglo-Japanese Alliance was abrogated. The policy of the British regarding the base at Singapore has greatly intensified this feeling. The sending of the present British note to the Japanese Government is a means of improving the British position in Japan without disadvantage, unless, indeed, the United States should offer criticism because the British are not adhering to the American policy of masterly inactivity in China. Another consideration is whether the French and Japanese might not use this move to improve their own relations with the Soviet Union.

7. Ostensibly the purpose of the British proposal is to prevent hostilities which now threaten. The means to be used is international consultation or the bringing of diplomatic pressure upon the rival Chinese factions. Japan is to be the primary agency, the Japanese Government being requested to offer constructive proposals for united, peaceable action.

8. As the initiating agent, Japan will consider her own interests and almost certainly will support Chang as she did in last fall's fighting. If Chang and Tuan need a modification of the arms embargo for the benefit of the national government or a new loan to enable them to carry on, the Japanese would probably give them support.

9. The means proposed for carrying out this suggestion, whether international consultation, peaceful action, or pressure, would not be effective with any party except Chang Tso-lin. He would become

²⁴The Lansing-Ishii Agreement was not canceled by the Washington Conference. For cancellation of the agreement, see *Foreign Relations*, 1922, vol. II, pp. 591 ff., and *ibid.*, 1923, vol. II, pp. 455 ff.

the protégé of the foreign governments. All his rivals, especially the Kuomintang, Feng Yu-hsiang, the Communists, radicals, and students (a most powerful factor in the existing political situation) would appeal to racial and national feeling against the foreign imperialists, who, by using the military, would dominate China. I fully agree with you that antiforeign feeling would be aroused in China by the suggested program.

10. The program suggested would not obtain the end sought. It would not prevent hostilities if they are to occur. Foreign powers cannot independently settle China's political and military problems. China herself alone can solve these problems. The powers can only facilitate a settlement. They should avoid even the appearance of intervening on the side of any faction or group in the conflict which impends, but should give all appropriate recognition and encouragement to any governmental authority which may emerge independently with reasonable likelihood of authority and stability. The first three paragraphs of the Department's telegram No. 293 of November 25, 1924, 6 p. m.²⁵ apply without qualification to the present situation and I entirely concur with the views there stated.

11. The existing military and political chaos is a standing menace to China and to the peace of the world as well as a great obstacle to commerce. Upon the collapse of a dynasty such chaos has been a common phenomenon in the history of China and sometimes has lasted for decades. Intelligent Chinese realize, however, that the annihilation of time and space and the contact with foreign countries make it necessary that they establish a new and workable government within a shorter interval than in bygone centuries. It is my deliberate opinion that sympathetic, thoughtful, and helpful cooperation with the Chinese is the wisest policy for the United States to pursue in the present crisis; the same policy which we have always followed in the past.

This telegram is repeated to Tokyo.

SCHURMAN

893.00/6112: Telegram

The Ambassador in Japan (Bancroft) to the Secretary of State

[Paraphrase]

TOKYO, March 29, 1925—11 p. m.

[Received March 29—8:48 p. m.]

55. Department's telegram 35 of March 27, via Peking,²⁶ and 36, March 28, noon. On March 27 British Ambassador asked if I had

²⁵ Not printed; this telegram quoted instruction No. 434, Nov. 24, 1924, to the Ambassador in Great Britain, *ibid.*, 1924, vol. I, p. 423.

²⁶ See footnote 22, p. 602.

heard anything. He told me that Debuchi²⁷ had just informed him that Foreign Office had no news of impending strife between Chang Tso-lin and Feng Yu-hsiang. Yesterday's papers printed long denial by Chang that there was any unfriendliness, hostility, or disagreement between him and Feng or the government of Tuan Chi-jui. For the reasons you state I consider form of British suggestion to be objectionable. Another objection is that it might be taken that the suggestion was made after a consultation between Great Britain and the United States and that the powers should cooperate directly in framing a plan for united action as well as in carrying out the plan.

My suggestions are as follows: 1. That inquiry be made of France and Japan as to what information they have on the reported imminence of a conflict. Because of superior facilities Japan generally has received earlier and more accurate information concerning events in China than have the other powers. 2. That the United States ask Japan directly for suggestions. 3. That you then make your decision as to American policy. There does not seem to be anything in the present situation greatly different from the situation last fall when the understanding was that no action should be taken. See Embassy's telegrams 226, September 9, 5 p. m., 227, 229, 242, 259, 270, 278, 314, 324 and my despatch number 91.²⁸ Peking informed.

BANCROFT

803.00/6068

The Secretary of State to the Minister in China (Schurman)

No. 877

WASHINGTON, March 30, 1925.

SIR: The Department has received your despatch No. 2740 of January 29, 1925, in which you refer to the recent civil warfare in the vicinity of Shanghai and request the Department's instructions as to the policy which will be adopted by the Government in the eventuality of a repetition of a situation such as has recently prevailed at that port.

The Department regards it as impracticable to lay down in advance, otherwise than in very general terms, its attitude toward a particular situation such as you describe; for its attitude must depend largely upon the existing circumstances. The complexity and uncertainty of political events in China at the present time require, for the appropriate protection of American interests, that the traditional principles of American policy with respect to that country receive, in their application to particular situations, a flexibility of treatment which

²⁷ Japanese Vice Minister for Foreign Affairs.

²⁸ Telegrams No. 227, Sept. 10, 1924, and No. 314, Dec. 4, 1924, are printed in *Foreign Relations*, 1924, vol. I, pp. 373 and 429; the other documents are not printed.

shall at the same time leave their integrity unimpaired and afford no basis for possible charges of inconsistency or ulterior motives on the part of this Government.

With regard to the suggestion appearing in the Shanghai press that the interested Powers establish a neutral zone outside the Settlement and that each of the Powers send to Shanghai a force of 1000 men for the protection of the Settlement, the Department approves of the view which you expressed to the British Minister, as reported in your telegram No. 28, January 18, 11 P. M., that this would be an act of forcible intervention on Chinese territory, that the American Government would be opposed to such a policy, and that you would not consider it unless the naval authorities reported that it was an imperative necessity for the protection of American and other foreign lives in Shanghai. In this connection, reference is also made to the statement of Admiral McVay, reported in the Legation's telegram No. 29, January 19, 1925, that the senior naval officers decided that the force available was sufficient to keep defeated soldiers out of the Settlement.

With reference, generally, to the question of protection of American citizens throughout China, the Department desires to refer to the statement made in its instruction No. 600 of March 15, 1924,²⁹ that "the extent of possible protection, is, and must remain, substantially that which may be obtained by diplomatic means and by the presence, actual or potential, of our naval forces in Chinese waters". In the absence of some actual, or definitely threatened emergency, imperilling American lives, such as the Boxer uprising of 1900, it is unlikely that any other or greater degree of protection will be afforded Americans in China than that specified in that instruction.

I am [etc.]

For the Secretary of State:

JOSEPH C. GREW

898.00/6109

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, April 2, 1925.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 309 of March 27, 1925, in which it is stated that the British Government fears that civil war may again break out in the near future in North China to the serious detriment of the country in general and to its arteries of communication in particular. In view of these circumstances, you state that the British Ambassador in

²⁹ *Foreign Relations*, 1924, vol 1, p. 594.

Tokyo has been instructed to ascertain from the Japanese Government whether it desires to make any proposals with a view to international consultation or the use of diplomatic pressure upon the rival Chinese groups so as to prevent the hostilities now threatened. You add that it appears to the British Government that this is an opportune moment for Japan to submit constructive proposals calling for joint pacific action and that you have been directed to solicit the cooperation of the American Government in approaching Japan upon this important matter.

The seriousness of the present situation in China, with its menace of a further outbreak of civil war, has not failed to cause this Government also the greatest concern; and it has therefore given the most careful consideration to the proposals of the British Government as stated in your note. As a result of a thorough review of the matter, I venture to submit the following observations as briefly summarizing the views of this Government:

(1) The use of diplomatic pressure upon the rival Chinese groups so as to prevent hostilities would in effect constitute a form of interference in the domestic affairs of China. In the recent hostilities, it has been the carefully observed policy of the principal Powers concerned, including Japan, to abstain from such intervention, a policy which this Government believes has had much to do with the comparative immunity of foreign persons and property within the areas affected. It does not appear that the hostilities now threatened are likely to be of a character essentially different from such conflicts as have hitherto occurred, and this Government is scarcely inclined to believe, in view of the declared policy of the Japanese Government of non-interference in such matters, that a suggestion to that Government that it initiate a *démarche* of the character described, would prove acceptable. In this connection, the speech of the Japanese Minister for Foreign Affairs at the recent opening of the Diet appears most pertinent,—particularly the statement that the Japanese Government had no intention whatever of interfering in the domestic affairs of China and that it had consistently conformed to that policy.

(2) Irrespective, however, of the attitude of the Japanese Government toward a proposal to apply diplomatic pressure with a view to the prevention of hostilities, this Government is of the view that pressure limited to joint pacific action would not prove effectual and would in all probability be disregarded by whichever faction sought to profit by taking the offensive.

(3) Aside from the question of the doubtful efficacy of the course proposed, this Government cannot escape the conviction that such an effort to influence by external pressure the course of Chinese domestic politics would almost certainly aggravate, and perhaps render crit-

ical, the present wide-spread anti-foreign sentiment among certain classes of the Chinese people. As the British Government is aware, the last few months have seen a recrudescence of such sentiment, which has manifested itself acutely at various places throughout China and has appeared in different forms, opposing foreign capital, foreign education, and foreign Christian missions. While this Government has no desire to exaggerate the dangers of this situation, it is reluctant to assume the risk of exacerbating such sentiment by adopting a course which seems likely at the same time to prove ineffectual for the purposes in mind, and to afford a basis for a possible charge of favoring one faction as against another.

This Government, therefore, while viewing with the greatest sympathy the objects which the British Government has in mind, and not wishing to close the door to a consideration of any practical suggestion which may be evolved, regrets that it cannot see its way to adopt the course of action proposed in your note of March 27.

Accept [etc.]

FRANK B. KELLOGG

893.00/6184 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, May 2, 1925—4 p. m.

[Received May 2—10:37 a. m.]

179. My 171, April 24, 4 p. m.,⁸⁰ and Legation's 127, March 29, especially paragraph 1.

1. Feng Yu-hsiang continues to receive steady stream of munitions from Urga. Delivery of the 5,000 machine guns anticipated in near future. Apparently no attempt any longer to conceal supply of munitions from Russia to Feng. Understood all motor cars in Urga being requisitioned for this purpose. Mongolian forces under Soviet control being strengthened; 5,000 instructors, of whom 500 are Russian, introduced into Inner Mongolia. I am informed that on April 29 Fengtien army authorities took over temporar[il]y at Shan-haikwan and ordered mobilization of rolling stock there. Chang Tsung-chang recently mandated *Tupan* of Shangtung, which, on paper at least, consolidates Chang Tso-lin's position from Mukden to Shanghai through Tientsin and Nanking. Tariff war tax [between ?] Chinese Eastern and South Manchuria Railway continues. Efforts by Soviets to control Chinese Eastern increasing with Chinese opposition thereto strengthening. Soviet and Chinese railway officials openly quarreling.

⁸⁰ Not printed.

2. All these circumstances make clash between Chang Tso-lin and Feng Yu-hsiang appear more imminent and possibly immediate. If this conflict takes place, while forces of Chang and Feng would do actual fighting, at least for the present, Japan and Soviets, in my opinion, would be real contenders for control Northern China. Military attaché requests War Department be informed. Substance transmitted to commander in chief.

Copy by mail to Tokio.

MAYER

803.00/6224 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, May 26, 1925—6 p. m.

[Received May 26—11:37 a. m.]

189. My 179, May 2, 4 p. m., and second paragraph my 186, May 13, 3 p. m.²¹

1. Chang Tso-lin's Peking representative states that Marshal Chang is coming to Tientsin on 27th or 28th May and probably to Peking almost immediately thereafter.

2. Representative likewise states Chang Tso-lin intends to secure military control of Peking and environs in order to be in a position to head a government should Tuan vacate office. This military control to be obtained by substitution of Chang Tso-lin troops for Feng Yu-hsiang troops and attaching *gendarmérie* and police to Chang. Thus substitution seemingly now in peaceful progress.

3. Impossible at this juncture to forecast under what guise, legal or otherwise, Chang might attempt to assume national leadership.

4. Information obtained by military attaché strengthens opinion expressed in the second sentence of paragraph 2, my 179, May 2, 4 p. m.

5. Repeated to Tokio.

MAYER

893.00/6227 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, May 30, 1925—10 a. m.

[Received May 30—1:12 a. m.]

194. My 189, May 26, 6 p. m. Chang Tso-lin arrived Tientsin 2 a. m. today.

MAYER

²¹ Latter post, p. 632.

893.00/6353 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, July 2, 1925—7 p. m.

[Received July 2—10:35 a. m.]

259. My 194, May 30, 10 a. m.

1. General situation as concerning Chang Tso-lin and Feng Yuxiang apparently as follows: Former still Tientsin with train ready to start at any moment for Mukden. On the other hand Chang continues to state his desire to crush Feng—that he intends to do so shortly and come to Peking and take over control of affairs. He is making desperate efforts to obtain British support both civilian and governmental principally of financial character.

2. Emissaries of Chang have called upon British Chargé d'Affaires recently who has given them verbal negative reply. Chang's position appears to be that he may at any moment for some reason or other either return to Manchuria or come to Peking and assume control, fighting Feng or not, dependent on latter's attitude . . . In addition to financial stringency Chang is said to be threatened with disaffection among troops and subordinate leaders.

3. Substantially Feng's position is the same as Chang's. He is undecided whether to force matters vis-à-vis Chang on present issues and is supported and undoubtedly urged on by Soviet and radical Kuomintang assistance and incitement. Anything may overturn the balance in his case as in Chang's and send him here to forestall a possible *coup* by the Fengtien forces. Feng continues to issue increasingly fiery and rabid statement[s] addressing his soldiers in a fervid antiforeign manner and particularly anti-British. He openly asserts war should be declared against Great Britain. Naval attaché has information from highly reliable source that Feng has about completed preparations for seizure of the Government and is only awaiting signal from Canton.

MAYER

793.00/75

The British Chargé (Chilton) to the Secretary of State

No. 686

MANCHESTER, MASS., July 9, 1925.

[Received July 10.]

SIR: I have the honour to invite reference to the recent communications which I have addressed to you on the subject of events in China ending with my note No. 684 of the 7th instant.²⁷ Owing to the rapid developments of the situation and to the dangers with

²⁷ *Post*, p. 678.

which it is fraught, His Majesty's Government consider it to be of the utmost importance that their future policy towards China, as also that of the other interested Powers, should be clearly defined at the earliest possible moment. I am accordingly instructed to lay before you the following summary of the situation as it now appears to His Majesty's Government which, for purposes of convenience, is grouped under geographical headings according to the areas affected by the present disturbances.

(1) *North China.*

Chang, after making overtures (which have not been encouraged) for support to enable him to crush Communist elements which are fomenting the present anti-foreign agitation, seems to be drawing in his horns with a corresponding increase of Feng's military power in and around Peking. Chang is apparently embarrassed by Russian activities in that part of Northern China, which he is himself primarily concerned to maintain as the basis of his operations. Thus the situation, as viewed by His Majesty's Government, is increasingly propitious for the emergence of Feng, who has a considerable and well trained force at his disposal, and is being supplied with munitions of war from Russia, as a national patriotic leader, pledged, with Russian encouragement, to destroy the position of the foreign powers in China. He has already openly declared himself in favour of war upon His Majesty's Government. The present state of Chinese feeling, which is being systematically and deliberately exploited by Soviet agents, therefore makes it necessary seriously to consider the possibility that Feng may at any moment translate his words into deeds with results which must be a matter of grave concern to other treaty Powers as it is to His Majesty's Government.

(2) *Yang Tze Valley.*

Here there have been a series of disorders which, as the latest information at the disposal of His Majesty's Government indicates, may at any moment be repeated and endanger the safety of treaty ports on this waterway. The resulting adverse effects upon the whole position of foreign interests in China hardly require to be emphasized.

(3) *Canton.*

The aggressive attitude of the Communist Government now installed at Canton is proved by recent events and it is impossible not to feel considerable uneasiness regarding the position of the foreign community at Shanghai [*Shameen?*] who are on the defensive; the danger presented by Canton is not purely local. The Canton authorities possess in the Whampoa Officers' Training School, an institution which His Majesty's Government are reliably informed is a distinctly military asset. It is partly staffed with Russian instructors and must be regarded as the possible nucleus of a military force which, under conditions now prevailing, may seriously affect the whole Chinese situation. Indeed, recent events appear, in the opinion of His Majesty's Naval authorities, to indicate the possibility of a Russo-Chinese attempt to blockade the passage of the Canton

river. In these circumstances, it is subject for consideration whether immediate steps ought not to be taken if possible to avert and, failing prevention, to provide against a combination of dangers which, if they materialize, must inevitably lead to forcible action on a considerable scale for the protection of foreign interests, life and property.

In deciding what policy they should adopt to cope with the exigencies of the situation, His Majesty's Government are above all anxious that their attitude should in all respects possible correspond with that of the United States Government. I am accordingly instructed to enquire whether the United States Government are in general agreement with the foregoing summary and, in the affirmative event, I should be grateful to learn at the earliest opportunity, what steps your Government consider should be taken to meet the situation, together with a statement of their reasons for any action proposed.

I have [etc.]

H. G. CHILTON

793.00/75

The Secretary of State to the British Chargé (Chilton)

WASHINGTON, July 13, 1925.

SIR: I have your note No. 686 of July 9, 1925, and find that this Government is in general accord with the British Government as to the seriousness of the situation in China as described under the geographical headings used by you. This situation is being very carefully watched by the Government of the United States and by the commanders of its military and naval forces in the Far East, and, in accord with their advice, a sufficient force of naval vessels is being maintained at the Asiatic Station to cope with the conditions now in existence. I have no doubt His Majesty's Government is fully informed of the classes of these vessels, their location and the number of men in their crews. In addition, the United States has a military force of a thousand men cooperating with the expeditionary forces of the other protocol Powers for the purpose of maintaining communication between Peking and the sea.

After consultation with the Naval and Military authorities of this Government I find that no request has come from the commanders of the American forces in the Far East asking for additional assistance. I am informed that in their opinion American forces there are adequate for all present purposes.

This Government will be glad to be informed of the views of the British Government or any specific suggestions which it may have to make in regard to coping with the exigencies of the situation now

existing. Up to the present this Government has not considered any action other than that described above, which has been taken for the purpose of protecting the lives and property of its citizens. Without in the least trying to minimize the dangers to foreigners it is very difficult for this Government to state what steps it will be necessary to take in order to insure adequate protection as it seems necessary, to a large extent, to rely on the judgment of the commanders who are on the ground and have a full knowledge of the situation.

Accept [etc.]

FRANK B. KELLOGG

893.00/6450 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 25, 1925—4 p. m.

[Received July 25—8:45 a. m.]

290. Legation's 259, July 2, 7 p. m. Press reports Chang Tso-lin has arrived back at Mukden.

MACMURRAY

893.00/6455

The British Chargé (Chilton) to the Secretary of State

No. 712

MANCHESTER, MASS., July 27, 1925.

[Received July 29.]

SIR: I have the honour to refer to recent correspondence on the situation in China and to inform you that, according to reports which have reached His Majesty's Government, the position has eased to some extent and there is less cause for anxiety than during the first half of the present month. In these circumstances, His Majesty's Government have taken no special precautionary measures beyond despatching H. M. Aircraft Carrier *Hermes* to Hong Kong with the necessary complement of aeroplanes.

I have [etc.]

H. G. CHILTON

893.00/6681 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, October 17, 1925—5 p. m.

[Received October 17—2:10 p. m.]

448. My telegram number 445, October 16, 5 p. m.²³

1. Although no overt acts of hostility have yet been reported, there has come to exist a situation of great tensy between the

²³ Not printed.

forces of Chang Tso-lin in Kiangsu and the Chekiang forces under Sun Chuan-fang who is believed to be acting upon an understanding with Feng Yu-hsiang and Wu Pei-fu for the purpose of driving Chang back into Manchuria and eliminating him from the coalition which has been supporting Tuan Chi-jui in power here. It is possible that Sun is seeking merely to increase area of his individual power and will be content with obtaining possession of Shanghai. If, however, he actually brings on a conflict with Chang forces it will apparently indicate that Wu has aligned himself with Feng for the purpose of obtaining definite control over Central Government to the exclusion of Chang and forestalling the possibility that Tuan might intrench himself in power as a consequence of increased revenues to be derived from the results of Customs Conference.³⁴

2. Should that prove to be the case it seems likely that the whole of North China will be involved in a new civil war between Feng and Chang with the possession of Peking as the principal objective. It is only possible to conjecture the course of such a struggle; but it would seem that Feng is in stronger position to obtain control of the Capital and of such authority as still rests with Central Government. It seems likely that in that case he would eliminate Tuan. It is possible that, if the new administration established by him were to be recognized by the powers, Feng would ask the Tariff Conference to stop; but it is at least equally probable that Feng who is strongly under Soviet influences and beholden to them for the very large quantities of arms and ammunition with which he has recently been able to supply his armies would refuse to have anything to do with the conference and would emulate Turkish example of baldly denouncing so-called unequal treaties.

3. Should Feng accomplish his purpose against Chang, there is, nevertheless, prospect that the coalition between him and Wu would break down as it is based only upon an immediate community of interest in restricting Chang to Manchuria, and is understood not to involve any reconciliation of antagonism created by Feng's treachery towards Wu a year ago.

4. I report these somewhat speculative matters merely in order that you may be prepared to envisage the possibilities in the event that a new situation is suddenly created by hostilities in the neighborhood of Shanghai.

MACMURRAY

³⁴ Special Conference on Chinese Customs Tariff, pp. 833 ff.

893.00/6680 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, October 17, 1925—10 p. m.

[Received October 17—1:20 p. m.]

451. Following from Shanghai:

"October 17, 1 p. m. Forces of Sun Chuan-fang have completely occupied Shanghai without resistance, and advance guards are reported to have reached outskirts of Soochow. It is reported that retreating Fengtien soldiers have blown up one of the bridges near Soochow. Since there are no other troops in this vicinity to oppose Sun no fighting is expected here. Jacobs."

MACMURRAY

893.00/6730 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 5, 1925—5 p. m.

[Received November 5—10:28 a. m.]

475. My 448, October 17, 5 p. m.

1. It is reported that negotiations between representatives of Chang Tso-lin and Feng Yu-hsiang for peaceful division of power have failed. Chang now appears to be confronted by three leading antagonists, Feng, Wu Pei-fu, and Sun Chuan-fang. Also reported that Tuan will side with Feng against Chang.

2. Feng's troops are mobilizing and 30,000 reported moving towards Peking; 5,000 Russian troops reported to be near Kalgan cooperating with Feng and two additional Red divisions entering Mongolia from Chita.

3. Chang has concentrated 50,000 troops near Jehol and 70,000 near Tientsin with more constantly entering through Shanhaikuan. Reported that Chang's forces include 1,500 Japanese and 1,200 White Russians in China uniform.

4. Early conflict in Jehol area and between Peking and Tientsin not unlikely.

5. Chang's representative Ou Tsing (see Legation's despatch 2767, February 12th)⁸⁵ called on me November 4th and predicted probable necessity for Chang to fight both Wu and Feng. He stated Chang is entirely confident of success in such a conflict, claiming total 400,000 men with rifles. Chang's representative conveyed very confidential offer from Chang to assist the powers to reach a reasonable agreement with the Chinese Government in tariff matters in case the Government's demands are excessive and also offered assistance in

⁸⁵ Not printed.

protecting foreign interests generally. Chang evidently continues to desire to be accepted as champion of foreign powers against Nationalist extremists.

6. Information and views herein regarding military matters are based on reports from military attaché.

Please communicate to War and Navy Departments.

MACMURRAY

893.00/6764 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 18, 1925—5 p. m. .

[Received November 18—10:54 a. m.]

488. My 480, November 12, 4 p. m.⁸⁶

1. Information from several reliable sources indicates that possibility of immediate conflict in the north, that is, between Chang and Feng, appreciably diminished. It seems certain that, in typically Chinese fashion, a compromise agreement has suddenly been arrived at between them which it is rather generally believed will tide over the difficulties between them for the next few months. According to this agreement it would appear that Chang will remove his troops from Paotingfu and Tamingfu and probably as far as Lutai on the Peking-Mukden Railway some 50 miles north of Tientsin, thus evacuating all positions held between Nanking and Tientsin, and that the latter port will be made available to Feng for import of munitions, etc. Feng on his part agrees to withdraw from vicinity of Peking northward, thus leaving a neutral zone in Chihli. Superficially Chang appears to give up more than Feng but it is quite likely that Chang is only too glad to be given a face-saving excuse for the withdrawal of his too widely extended line and commitments south of Tientsin.

2. There remain of course the several independent factors, such as the Honan situation, which is very complicated by Sun Chuan-fang, and the Yangtze provincial leaders with Wu Pei-fu nominally at their head. While it is true that the tension as regards an immediate conflict between Chang and Feng, which has been on the increase until the past few days, has now been very greatly lessened, it would be unwise to consider the possibility of war past since the equilibrium may be disturbed at any time by the action of the factors noted above over whom neither Chang nor Feng exercises effective control.

3. Through train service south from Peking is now completely suspended; express trains on Peking-Hankow line taken off; express

⁸⁶ Not printed.

from Mukden from 5 to 15 hours late; and while Peking-Suiyuan Railway running on fairly regular schedules, passengers are prohibited from disembarking at Great Wall and Ming Tombs which are now in military zones delimited by Marshal Feng.

4. Respectfully request repetition to War and Navy Department[s].
MACMURRAY

893.00/6788 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 25, 1925—5 p. m.

[Received 5:24 p. m.]

497. My 488, November 18, 5 p. m.

1. Japanese Legation confirms reports that Marshal Chang Tso-lin and his chief of staff, General Yang Yu-ting, have been placed in confinement at Mukden by order of Manchurian General Kuo Sung-ling and that there is dissension among Manchurian commanders at Shanhaikwan.

2. It also appears the [a?] fact that there is factional fighting among Manchurian forces at Chinwangtao and Changli and that General Li Ching-lin at Tientsin has declared independence of Chang. The railway is cut at Lanchow and trains run only to Tangshan.

3. Honanese officers are arranging billets some 5 miles west of Peking.

4. In these circumstances and considering general military and political instability throughout China I have recommended to commander in chief Asiatic Fleet that one division of destroyers be kept available at Shanghai for the present; that a second division be held in readiness for possible despatch to Chinese waters in the near future; and that similarly to last year a force of some 500 marines be in readiness at Cavite for immediate despatch to China should situation here develop warranting such action.

5. Please repeat to Navy and War Departments as at request of naval and military attachés.

MACMURRAY

893.00/6781 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Extract]

PEKING, November 28, 1925—6 p. m.

[Received 7:49 p. m.]

502. 1. Report in first paragraph my 497 November 25, 5 p. m. partially erroneous. Latest information is that while Yang Yu-ting

has fled to Dairen [and] serious defection among Fengtien forces south of the Wall amounted to factional fighting, there has been no *coup d'état* at Mukden and Chang Tso-lin is still in control there. Although the situation is still undefined it would seem that General Kuo Sung-ling and the Manchurian forces between Tientsin and the Wall, having come to an agreement with Marshal Feng Yu-hsiang, attempted to march on Mukden with the purpose of ousting Marshal Chang, which attempt was blocked by loyal Manchurian forces at Shanhaikwan.

MACMURRAY

893.00/6794 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Extract] .

PEKING, November 30, 1925—6 p. m.

[Received November 30—4:25 p. m.]

508. My 502, November 28, 6 p. m., paragraph 4.⁸⁷

1. On November 28th some thousands of students and workmen without interference from police or Feng's soldiers held demonstrations and destroyed property in the residences of the Minister[s] of Finance and Education and elsewhere. The demonstrators attempted for 3 hours to enter Chief Executive's residence but soldiers prevented this.

2. Among mass of leaflets and cartoons distributed were some issued under name of Chinese Communist Society but more under Kuomintang. Following is portion of a typical leaflet:

"Recover unconditionally the right of customs autonomy. Cancel all unequal treaties. The people want real and actual independence in assembling meetings, forming societies, in speech and in publications. Expel the representatives of the various powers at the Customs Conference. Release all fighters arrested in demonstrating against imperialism. Establish the military strength of the masses. Overthrow imperialism. Support the people's Military Government of Canton. Expel Tuan Chi-jui; execute Chu Shen (former chief of police); assemble a people's conference truly representative of the people."

MACMURRAY

⁸⁷ Paragraph 4 not printed.

893.00/6825 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 7, 1925—10 a. m.

[Received December 7—3:04 a. m.]

517. My 514, December 4, 1 p. m.⁸⁸ Following from American consul, Mukden:

"December 6, 11 a. m. Chang has suffered complete debacle. Young Chang retreated to a place very near to Mukden; position of Chang absolutely hopeless. There is a general exodus from the city. I do not expect any danger to any foreigners. Have heard Marshal will leave today."

MACMURRAY

893.00/6838 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 9, 1925—9 a. m.

[Received December 9—2:24 a. m.]

521. My 517, December 7, 10 a. m. Following from American consul, Mukden:

"December 8, 1 p. m. Chang and his son are determined to make hard fight. Young Chang has a strong position on the Liao. There is still a small possibility that the Marshal can hold on. The city quiet."

MACMURRAY

893.00/6841 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 11, 1925—7 p. m.

[Received December 13—5:04 a. m.⁸⁹]

524. 1. Following is summary of radiograms from General Connor⁹⁰ at Tientsin, intercepted messages from international train to General Connor, and other official sources: International train which left Peking December 10, 8 a. m., for return trip to Tientsin fired upon by Li Ching-lin artillery 4 miles south of Yangtsun presumably early this morning. Train slightly damaged by shrapnel but no casualties; returned to Yangtsun. Two of Feng's armored trains

⁸⁸ Not printed.⁸⁹ Telegram in two sections.⁹⁰ Brig. Gen. William D. Connor, U. S. Army, commanding American forces in China.

were immediately behind international train and it is possible international train was fired upon in view of this circumstance. Foreign commandants at Tientsin are protesting to Li. General Connor obtained permission to send relief train at 2 o'clock today to Yangtsun with food, etc., and to bring passengers to Tientsin. Contingent of Feng's forces has occupied railway station at Yangtsun and the area surrounding it with one or more batteries of artillery which have begun firing on Li's troops who are returning fire. Passengers on the train sought safety underneath cars during the battle which is now raging with shells falling about them. French Legation guard has direct telephone communication with Yangtsun and promises to give me half-hourly bulletins concerning state of affairs there.

2. Senior minister, on behalf of Heads of Legation, and myself are now leaving to call upon General Lu Chung-lin, representative of Marshal Feng Yu-hsiang in Peking, to protest against violation of article 9 of 1901 protocol⁴¹ since we have always maintained that this article gives foreign railway guards exclusive right to occupy Yangtsun and other points named in article 9. We will endeavor to persuade Feng to withdraw his forces from Yangtsun and to accord international train every possible protection. Likewise we will protest against international train being closely followed by any military trains.

3. Following as background. Telephone communication with Tientsin has been interrupted for 2 days; regular train service has likewise been interrupted for that period owing to heavy troop movement, removal of rails at various points, and at least partial blowing up of Bridge 31 at Yangtsun. International train in question left Tientsin at 10 o'clock morning of December 9th only arriving Peking 3:55 on the morning of 10th, the delay being occasioned by the necessity of repairing the bridge at Yangtsun and the rails at various points and likewise on account of congestion of troop trains. International train is under the command of Captain Cope of the American Army forces at Tientsin.

4. Repeat to War and Navy Departments at request of military and naval attachés.

(Section two and last.)

1. General Lu Chung-lin informed Netherlands Minister and myself that in the circumstances it was impossible for him to suggest to Marshal Feng immediate withdrawal of his troops from Yangtsun since the struggle for Tientsin is now at a critical stage, an ultimatum having been delivered to Li Ching-lin's forces either to accept by tonight certain terms offered to them or take the consequences. Lu stated there was every reason to expect heavy fighting tonight

⁴¹ *Foreign Relations*, 1901, appendix (Affairs in China), p. 312.

nearer Tientsin and expressed grave doubt whether arrangement could be made to get train through. It was finally arranged that Peck, Chinese Secretary of Legation, and Mr. Tang, representing General Lu, should proceed at once by automobile to Yangtsun for the purpose of facilitating the return of train to Peking or if advisable its proceeding to Tientsin. It seems advisable to leave the decision of this point to the discretion of commander of train in consultation with Peck. The British, French, Italian and Japanese Ministers concur in arranging for the return of train if deemed advisable. I have communicated in this sense with General Connor by radio, requesting him to communicate accordingly to the train commander which he can do by radio.

2. According to Lu fighting has advanced some miles beyond Yangtsun towards Tientsin leaving Yangtsun quiet and out of danger. A simultaneous report from commandant of the French post at Yangtsun however is to the effect that the battle continues but that passengers safe and comfortable.

3. Repeat to War, Navy Department, at the request of military, naval attaché.

MACMURRAY

893.00/6843 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 12, 1925—8 p. m.

[Received December 13—11:15 a. m.]

527. My 524, December 11, 7 p. m. International train arrived Peking at 6 this evening with all on board unhurt and well.

MACMURRAY

893.00/6844 : Telegram

The Consul General at Tientsin (Gauss) to the Secretary of State

TIENTSIN, December 14, 1925—3 p. m.

[Received December 14—8:50 a. m.]

Communication with Peking now limited to radio. Li Ching-lin, Military Governor of Chihli, successfully resisting advance Feng Yu-hsiang forces from Peking on a line more than 6 miles from Tientsin. Feng's forces however attempting encircling movement to the east and Feng's troops at Tangshan also advancing against Tientsin. Military Governor expects reenforcements from Shantung without which his position appears hopeless.

GAUSS

893.00/6851 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 14, 1925—6 p. m.

[Received December 15—9:15 a. m.]

528. 1. I have communicated confidentially to General Connor at Tientsin substantially as follows: It was decided at meeting today of ministers representing signatories of the Boxer protocol⁴² that it would be inadvisable to force an issue by ordering international train to proceed regardless of consequences inasmuch as present interruption of railway to Tientsin results from temporary conditions incident to hostilities that are in no way antiforeign. However, aforementioned ministers are protesting to the Chief Executive through the senior minister who is seeking earliest opportunity to present the following *aide-mémoire* upon which he will enlarge.

2. "I am desired by their Excellencies the Ministers for America, Belgium, France, Great Britain, Italy, Japan and Spain, representatives of the signatory powers of the protocol of 1901, to draw Your Excellency's most serious attention to the fact that as a result of serious hostilities between contending Chinese armies it has been impossible during the last few days to proceed from here either by road or by train to Tientsin, and to the circumstance that trains which the foreign guards intended to run themselves to Tientsin had to return to the capital in order to avoid unfortunate incidents.

3. "I am further desired to urge that the necessary measures be taken to remedy at once this state of affairs and to bring about the resumption of free communication between here and Tientsin in accordance with the protocol of 1901."

4. Fighting around Tientsin still indecisive.

MACMURRAY

893.00/6872 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 23, 1925—10 p. m.

[Received December 23—5:50 p. m.]

542. 1. On December 22 General Connor at Tientsin informed me by radio substantially as follows: International train under Japanese command which left Tientsin for Shanhaikuan the morning of 22nd was fired upon by Feng forces near Hsinho and compelled to halt about 1:30 p. m. A subsequent attempt to proceed was prevented by an armored train. Brigade commander of Feng forces boarded and inspected train against the protest of the train commander.

⁴² *Foreign Relations*, 1901, appendix (Affairs in China), p. 312.

Officer in command of Feng forces on that front, General Connor was informed, direct[ed] that the international train return to Tientsin and [warned?] that he would open fire if the train did not retire at once. Infantry and an armored train belonging to Feng's forces were put in position to resist an advance by the international train; its commander's request for time to report to senior commandant at Tientsin by radio was refused. Train returned to Tientsin at 6 p. m.

2. Senior minister this morning conveyed these facts to Feng's local diplomatic representative with whom this Legation has been in negotiation concerning arrangements for running of the international train back to Tientsin from Peking. He surmised Feng's commander on Tangku front had not yet received instructions as to Feng's approval of arrangement for operation of the international train (see below) but promised to telegraph immediately to Feng urging that this commanding officer be sent prompt orders. Senior minister likewise has addressed a note to the Chinese Government which after reciting the facts states as follows:

"I have to invite Your Excellency's attention to the above-stated facts which constitute a very grave violation of article 9 of the protocol of 1901 and to ask that immediate instructions be issued to permit the passage of the international trains which it is proposed to send from Tientsin to Shanhaikuan in the near future."

4. My 532, December 17, 6[3] p. m., last sentence.⁴³ After much negotiation covering a week's time arrangements for operation of international trains have been approved by Feng, these arrangements meanwhile having been agreed to by Li Ching-lin. They comprise provision for identification, prohibition of close pursuit of international train by Chinese trains, and other provisions quite properly desired by contending forces for their protection. The return of train from Peking to Tientsin scheduled for this morning is again delayed owing to destruction of 22,000 meters of track and part of a bridge.

Repeated to Tokyo.

MACMURRAY

⁴³ *Post*, p. 889.

893.00/6873 : Telegram

The Consul at Chefoo (Putnam) to the Secretary of State

CHEFOO, December 24, 1925—2 p. m.

[Received December 24—6:33 a. m.]

The following telegram has been received for transmission from the consul general at Tientsin:

"December 24, noon. Li Ching-lin forces are retreating from Tientsin after stubborn resistance during a 2 days' attack. Much confusion and disorder as well as some looting in the native city but the foreign residential areas have not been disturbed. Feng's troops are now entering the city."

PUTNAM

893.00/6875 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 24, 1925—5 p. m.

[Received December 24—10:39 a. m.]

544. My telegram number 542, December 23, 10 p. m.

1. Meeting of interested ministers this morning; agreed to send the following identic telegram to their respective Governments.

"In spite of the assurances given by the commandants of the forces several attempts to restore the operations of the international train between Peking and Tientsin on the one hand and Tientsin and Shanhaikwan on the other were unsuccessful, the train from Shanhaikwan having had to return in face of the danger of being fired on.

The interested representatives, believing that this apparently deliberate violation of the protocol may be utilized in a campaign for the abolition of existing treaties, think it desirable, independently of the protestations already made, to affirm the necessity of effectually maintaining free communications with the sea.

The use of force may be necessary and it being likely to lead to complications which it would be preferable to avoid, they request instructions of their respective Governments."

2. Senior minister was also requested to telegraph senior commandant of international forces at Tientsin that ministers think it at present inadvisable to renew attempt to run international train to Shanhaikwan unless in the judgment of the commandants that may be done safely and without incurring attack.

3. Since the meeting the senior minister has received word from the local representative of Marshal Feng that the latter has already telegraphed instructions to the division commander concerned that the international train must be allowed to pass without let or hindrance.

4. It now appears that Feng forces have today occupied Tientsin.

5. Arrangements have been made by which international Peking train now here should be able to go through to Tientsin immediately upon completion of necessary repairs to the line.

MACMURRAY

893.00/6876 : Telegram

The Consul at Mukden (Sokobin) to the Secretary of State

MUKDEN, December 24, 1925—5 p. m.

[Received 8:42 p. m.]

It is reported that Marshal Chang has completely defeated Kuo.⁴⁴ Most of the forces of Kuo have surrendered. Kuo fled.

SOKOBIN

893.00/6875 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, December 24, 1925—6 p. m.

347. Legation's Number 544 of December 24, 5 p. m., including identic telegram. Unless lives of American citizens are actually in danger, the Department would disapprove of the use of force; and from statement in fifth paragraph of your telegram it is assumed that the necessity to use force, which was apparent when the identic telegram was drawn up, no longer exists.

GREW

893.00/6878 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 25, 1925—6 p. m.

[Received December 25—12:57 p. m.]

545. My 544, December 24, 5 p. m. International train has arrived at Tientsin from Peking. Commercial service resumed with depleted equipment.

MACMURRAY

⁴⁴ Kuo Sung-ling, commander of Manchurian forces attempting to overthrow Chang Tso-lin.

123 M 221/118 : Telegram

The Minister in China (Schurman) to the Secretary of State

[Paraphrase]

PEKING, April 9, 1925—4 p. m.

[Received April 9—9:05 a. m.]

146. Legation's telegram 142 of April 7, 3 p. m.⁴⁶ I have just been informed by Minister for Foreign Affairs that MacMurray's appointment as our Minister in China will be satisfactory to the Chinese Government which will heartily welcome him. At the same time the Minister for Foreign Affairs requested that our new Minister be ready to present his credentials to Tuan Chi-jui.

I have been informed that the Belgian and French Ministers have not presented their credentials as yet. I am seeking interviews with them to find out just what the facts are. As soon as possible I will telegraph further on this subject.

SCHURMAN

123 M 221/120 : Telegram

The Minister in China (Schurman) to the Secretary of State

[Paraphrase]

PEKING, April 10, 1925—3 p. m.

[Received April 10—9:15 a. m.]

150. My telegram 146 of April 9, 4 p. m. I have interviewed my French and Belgian colleagues. I learn that they were also urged to present their credentials, which they declined to do, the French Minister saying that his credentials had not come and the Belgian Minister stating that his were addressed to former President Tsao Kun. Their real reason was that Tuan's government is only *de facto* and that it would constitute *de jure* recognition should they present their credentials. They expect that when the time comes for *de jure* recognition, if it does, the powers will confer and act together. The French and Belgian Ministers sent copies of their credentials to the Minister of Foreign Affairs for his information.

SCHURMAN

⁴⁶ Not printed.

123 M 221/124 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, April 27, 1925—1 p. m.

[Received April 27—8:45 a. m.]

174. Legation's 150, April 10, 3 p. m.

1. In spite of previous assurances to his French and Belgian colleagues of his solidarity with them in respect to presentation of letters of credence and only having notified them after the audience with Tuan Chi-jui for purpose of presentation had been arranged, the Spanish Minister, who arrived in Peking after the French and Belgian Ministers, presented his letters of credence April 24th last with usual remarks which in no way referred to provisional character of government or reserved any rights regarding *de jure* recognition. Monsieur Garrido alleged to act in accordance with instructions from his Government which he had not requested and assured the French and Belgian Ministers that this formality did not imply *de jure* recognition. Spanish Minister's letters of credence were in the name of the President of the Republic.

2. The French and Belgian Ministers have telegraphed for instructions, stating that in these circumstances without agreeing with the Spanish Minister they consider it necessary not to delay longer the presentation of their letters of credence in order not to be anticipated by the new American Minister who must soon be arriving.

3. From conversation this morning with French and Belgian Ministers, I concluded that they are not interested in hastening the presentation of their letters of credence but only wish quite properly to safeguard themselves as regards their diplomatic posts at Peking. French Minister anticipates his and American Government will discuss the matter; and if our Government agrees not to have new American Minister present credentials before French Minister, opportunity will be afforded for further discussion of this question of presentation of letters of credence and *de jure* recognition.

MAYER

123 M 221/126 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, April 30, 1925—7 p. m.

[Received April 30—9:35 a. m.]

178. My 174, April 27, 1 p. m.

1. Belgian Minister has received telegraphic instructions authorizing him to present his letters of credence if he considers that the

collective declaration of December 9, 1924, "permits him to act without preliminary agreements with the other representatives of the countries signatory to the Washington treaties. The Belgian Government requested a speedy response as the Chinese Minister at Brussels has requested the hastening of the deposit of his letters of credence by the Belgian Minister at Peking.

2. The question of the presentation of letters of credence will be discussed May 6th at meeting of Washington Conference powers.

3. Belgian Minister is notifying his Government of above meeting reporting he considers it would be preferable if Governments concerned consulted together in the matter since diplomatic representatives at Peking not in a position to decide whether presentation of letters of credence implies *de jure* recognition. I share above opinion and respectfully suggest at instance of Belgian Minister that if Department consulted with French Government in above request it do so likewise with Belgian Government.

MAYER

123 M 221/126 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, May 2, 1925—1 p. m.

91. Your 178, April 30, 7 p. m. The Department considers that it is somewhat artificial and impractical to consider in connection with the presentation of letters of credence the qualifications which may have been attached to the recognition of the present Peking régime last December (your telegram No. 472, December 4, 3 p. m.),⁴⁸ in view of the relations that the Powers are actually maintaining with that régime. It is not apparent that the presentation of letters of credence would import any substantial modification of the attitude already adopted by the Powers as instanced by the conclusion of the gold franc agreement⁴⁹ by which France appears to recognize the present Peking Government as competent to create obligations binding upon any succeeding Government of China. You may so inform your colleagues.

⁴⁸ See telegrams No. 472, Dec. 4, 1924, from the Chargé in China; No. 302, Dec. 5, 1924, to the Chargé; and No. 478, Dec. 9, 1924, from the Chargé, *Foreign Relations*, 1924, vol. I, pp. 431, 434, and 439.

⁴⁹ *Ibid.*, p. 431.

⁵⁰ Translations of the notes dated Apr. 12, 1925, exchanged between the Chinese Foreign Office and the French Minister in China settling the controversy regarding payment of the French share of the Boxer Indemnity in gold francs are printed in the *China Year Book*, 1925-6, pp. 1297-1300.

If inquiry should be made of the Department by the Belgian, French or other representatives here, reply will be made as indicated above.

KELLOGG

123 M 221/127 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, May 6, 1925—4 p. m.

[Received May 6—11:20 a. m.]

181. Department's 91, May 2, 1 p. m.

1. The representatives of the powers signatory to the Washington treaty⁶⁰ in a meeting this morning decided to send the following identic telegram to their respective Governments. Translation:

"The British and Italian Governments consider that the presentation of letters implies *de jure* recognition. The American and Japanese Governments consider on the contrary that it does not entail *de jure* recognition and can consequently take place independently. The representatives of the Netherlands and of Portugal are without instructions. Since it results from the instructions from Washington that the new Minister of the United States of America will present his letters, the Ministers of Belgium and of France propose that their respective Governments shall consult with Rome, London, The Hague and Lisbon in order that the presentation of letters of credence may not imply in the eyes of these Governments *de jure* recognition of the Provisional Chinese Government."

2. At this meeting after informing my colleagues of the Department's 91, May 2, 1 p. m., I expressed myself as believing the Government of the United States had it in mind that, in view of the present abnormal conditions in China which might endure for a long period of time, the foreign powers should not be too technical or theoretical in dealing with such situations as presentation of letters of credence and the like; that the state of affairs here was entirely anomalous and should be treated accordingly.

3. French Minister stated gold franc settlement was not a treaty but merely the regularizing of current situation by an exchange of letters. All representatives except Japan and myself either by virtue of instructions or from personal opinion expressed themselves categorically to the effect that presentation of letters of credence could not but imply *de jure* recognition unless such letters were from Minister of Foreign Affairs to Minister of Foreign Affairs, as in the case of a chargé d'affaires, or contained specific reservations concerning *de jure* recognition. General opinion was that unless

⁶⁰ *Foreign Relations*, 1922, vol. i, p. 276.

such reservations were made Chinese Government would undoubtedly consider presentation of letters of credence meant *de jure* recognition. Minister for Foreign Affairs reported to have so expressed himself in respect of Spanish Minister's recent presentation of letters.

MAYER

123 M 221/127 : Telegram

The Acting Secretary of State to the Chargé in China (Mayer)

WASHINGTON, May 9, 1925—8 p. m.

93. Your telegram 181, May 6, 4 p. m. By telegram 91, May 2, 1 p. m., Department did not intend to question that presentation of letters of credence would evidence *de jure* recognition but intended, as interpreted in your paragraph 2, to convey the belief that the practical necessity of maintaining relations with the Chinese Government has already brought about a situation in which the Powers are dealing with the Tuan régime as though it were a fully recognized Government; and that there would be no advantage in withholding action which would merely confirm a relationship already practically existing.

HARRISON

123 M 221/129 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, May 13, 1925—3 p. m.

[Received May 13—12:46 p. m.]

186. 1. Department's 93, May 9, 8 p. m. and previous correspondence interpreted to mean that new American Minister will present letters of credence thereby evidencing recognition by United States of Tuan regime as *de jure* Government of China.

I respectfully submit preferable not to accord such recognition.

2. Tuan regime has been from beginning and continues to be avowedly transitional, designed to function only pending establishment of formal government, and it has been so scrupulously treated by all Legations, with exception noted in my 174, April 27, 1 p. m. Despite Lincheng payment⁵¹ and gold franc settlement, Tuan regime has not actually advanced toward permanency, continuing to exist not through any inherent strength but solely because neither Chang⁵² nor Feng⁵³ has cared to displace it; an affair of day-by-day com-

⁵¹ See *Foreign Relations*, 1923, vol. I, pp. 631 ff.

⁵² Chang Tso-lin, commander in chief of the Manchurian forces and virtual ruler of Manchuria.

⁵³ Feng Yu-hsiang, commander in chief of the Peoples' Army and director general of the Northwest Frontier Defence.

promise. On April 24th by mandate Chief Executive promulgated regulations for citizens' conference, first article reading in part "The Provisional Government for the purpose of making a constitution hereby convenes a conference of the representatives of the people"; thus form of future *de jure* Government as well as date of its establishment conjectural. Quite probable citizens' conference will prove ineffectual as was reorganization conference but its convocation is further evidence that even Tuan and Chinese themselves consider his regime only provisional.

3. In the circumstances I respectfully suggest advisable to treat this anomalous state of affairs accordingly, consonant with interpretation of Department's point of view expressed in paragraph 2 of my 181, May 6, 4 p. m., and to address new Minister's letters of credence to Chief Executive of Provisional Chinese Government who actually exists rather than to President of the Republic of China who does not exist thus squaring our action with the facts and avoiding recognition of unstable transitional Tuan regime as *de jure* Government of China.

4. I respectfully request to be informed by telegraph of Department's decision in above regard and authorized to acquaint colleagues concerned therewith. Responsive to courteous cooperation of French and Belgian Ministers in question at issue, I suggest likewise that French and Belgian Embassies at Washington be so informed.

MAYER

123 M 221/129 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, May 27, 1925—3 p. m.

98. Your 186, May 13, 3 P. M. The following is the essential portion of a memorandum dated May 16, 1925, from the British Embassy:

"His Majesty's Government feel that the present Chinese Government, whatever degree of stability it may enjoy, and however good its intentions, does not on its own showing rest on any constitutional basis, and further, that there is a risk that any of its acts, including any agreements that Foreign Powers might conclude with it (for instance, as a result of the forthcoming tariff conference) might lawfully be repudiated by some succeeding Government claiming to be established with constitutional sanction.

In these circumstances, and whatever might be the political advantages or disadvantages of falling in with the suggestions made by the French and Belgian Governments, His Majesty's Government would be very glad to learn the views of the United States Government as to whether recognition is at present possible.

At the same time, I have the honour to suggest that in view of approaching tariff conference, it would be desirable that the Governments who will take part in that conference should instruct their representatives at Peking to point out to the Chinese Government that there are difficulties in the way of a conference being held so long as the Chinese Government is not fully recognized. In making this *démarche*, the Corps Diplomatique might also suggest to the Chinese Government that they would, for this reason, do well to place themselves upon such a constitutional and representative basis as would remove any technical objection to their full recognition by the Powers.

In this connection you will recollect that the Corps Diplomatique at Peking recently raised the question whether newly appointed diplomatic representatives should present letters of credence. It seems to His Majesty's Government difficult to understand how a Minister can be accredited to Government at Peking without admitting that that Government is the *de jure* Government of China, while on the other hand, the Government so recognized would yet remain one with which agreements could not safely be concluded.

In the light of the above, His Majesty's Government trust that the United States Government will suspend action as regards the presentation of letters of credence until the question of full recognition of the Chinese Government is settled, and I have the honour to ask the favour of your early observations on the points raised in this note."

In an interview with the British Ambassador on May 18 concerning this matter I suggested that the letters be addressed to the "Chief Executive of the Provisional Government of China"; that at the time of the presentation of his letters of credence Mr. MacMurray, in his formal address, would refer to the declaration communicated on December 4th concerning the provisional character of the present Government. I pointed out that this would seem to be recognizing nothing but the provisional government and the formal address by MacMurray would definitely state that it was just such recognition which is made necessary by the admittedly provisional character of the government. I explained to the British Ambassador that we had to accredit the new Minister to some Government and that this plan would clearly prevent any claim by China that we had extended *de jure* recognition to a provisional government. He agreed with me that this program would be sufficient to meet the situation but said he would communicate my oral reply to his Government.

You may acquaint your colleagues with the above and the French and Belgian Embassies in Washington will likewise be informed.

KELLOGG

⁴ See telegram No. 472, Dec. 4, 1924, from the Chargé in China, *Foreign Relations*, 1924, vol. I, p. 431.

123 M 221/187b : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, June 23, 1925—4 p. m.

116. The French Embassy yesterday presented the following memorandum:

"According to information received by the French Government, the Italian Government is very anxious that Foreign Ministers in Peking should only present their credentials when the claims concerning the payment in gold of the Boxer Indemnity have been given satisfaction.

"The French Government would be willing to modify in the above sense their instructions to the French Minister in Peking, M. de Martel, if the United States Government were ready to postpone the presentation of Mr. MacMurray's credentials.

The French Embassy would be greatly obliged to the Secretary of State for an expression of his views on this matter."

Department replied informally that under present circumstances it did not feel justified in instructing MacMurray to postpone the presentation of his credentials on the basis set forth in the French memorandum.

Inform MacMurray on arrival and request him to cable his comment.

KELLOGG

123 M 221/142 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, July 2, 1925—3 p. m.

[Received July 2—9:40 a. m.]

258. Your 116, June 23, 4 p. m. Belgian Minister presented credentials on June 30th and French Minister July 1st. In both instances letters were original ones brought to China by the respective representatives and addressed to the President of China. French Minister at presentation referred to joint note of the representatives of the Washington Conference powers of December 30th last⁵⁵ and spoke of the present Government as provisional. Not informed regarding remarks of the Belgian Minister although I assume they were similar.

Repeated to Shanghai for the information Minister MacMurray.

MAYER

⁵⁵ This apparently refers to the joint declaration of Dec. 9, 1924.

123 M 221/143 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, July 7, 1925—3 p. m.

[Received July 7—8:37 a. m.]

266. From MacMurray: Arrived today. Mayer will remain in charge pending consultations with colleagues as to proposed presentation of letters of credence to Tuan as Provisional Chief Executive.

MAYER

123 M 221/147 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 15, 1925—noon.

[Received July 15—3:06 a. m.]

273. I have today presented my letter and have assumed charge.

MACMURRAY

ACCEPTANCE OF THE SOVIET AMBASSADOR AS DEAN OF THE DIPLOMATIC CORPS AT PEKING AND ESTABLISHMENT OF AN INFORMAL ORGANIZATION OF HEADS OF LEGATION⁵⁶

707.1161/20 : Telegram

The Secretary of State to the Minister in China (Schurman)

WASHINGTON, February 28, 1925—4 p. m.

30. Your despatch No. 2590, November 8.⁵⁷ The Department considers that the status of the Soviet representative as Dean of the Diplomatic Body cannot be ignored and that he is therefore entitled to participate in meetings of the Diplomatic Body, the scope of whose deliberations, however, it may be anticipated will henceforth be limited to matters of a purely formal or ceremonial character.

You are authorized whenever it may seem expedient to join your colleagues in conveying to the Soviet representative an intimation that you are prepared to cooperate with him in such matters as remain of general concern to the entire Diplomatic Body.

In view of the provisions of Articles III and XII of the Sino-Russian agreement of May 31, 1924,⁵⁸ it would not appear necessary or appropriate that he should be admitted to participation in meetings of the foreign ministers dealing with questions of treaty rights

⁵⁶ For previous correspondence concerning relations with the Soviet Ambassador, see *Foreign Relations*, 1924, vol. I, pp. 443 ff.

⁵⁷ Not printed.

⁵⁸ *Foreign Relations*, 1924, vol. I, p. 495.

such as those established by the Boxer protocol⁵⁹ or with respect to extraterritoriality.

It is considered that the custody of the archives of the Diplomatic Body, with the exception of those which are concerned with the deliberations of the whole Diplomatic Body, as above referred to, should remain with the Senior Minister.

HUGHES

707.1161/22 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, March 11, 1925—3 p. m.

[Received March 11—11:20 a. m.]

100. Your 30, February 28, 4 p. m.

1. I called meeting of Legation heads, March 3, to consider admission of Karakhan as member and dean diplomatic body. Excepting Dutch and Belgian representatives, who had not heard from their Governments, all agreed in substance to plan of limiting diplomatic body, as in all other capitals, to ceremonial functions and entrusting care of special and common interests of treaty powers to suitable group or groups of diplomatic representatives.

2. Meeting adjourned after prolonged discussion. Dutch and Belgian representatives having in few days reported to me their instructions, which were favorable, I called another meeting for March 10th. I opened it by advocating, in addition to a ceremonial diplomatic body, one group embracing all ministers now in Peking as unofficial instrument for transaction common treaty business with Chinese Government and consular bodies. Others advocated special committees such as protocol powers, etc. Obvious point was made against plan of having one group with all ministers in it, that some countries had no special treaty rights and Karakhan might equally with their representatives claim seat in such a group. German Minister, who is *persona grata* to all his colleagues, said that he had no more right to be included than Karakhan. It was pointed out in reply that the proposed body being informal could constitute itself as it liked and Karakhan would have no more right to demand admission than to a social gathering. After long discussion this plan was unanimously adopted.

3. It was suggested we communicate the result orally to Karakhan and the Chinese Government. I expressed the opinion however that in view of the radical change we were making in the character and functions of the Peking diplomatic body we should send written communications. This view prevailed and I appointed Italian Min-

⁵⁹ *Ibid.*, 1901, appendix (Affairs in China), p. 312.

ister (who is friend of Karakhan) and British Chargé (whose Government had sent very definite instructions and with whom I had conferred in advance) a committee to draft for submission to a later meeting the necessary notes. I trust the whole subject can be disposed of next week.

4. So long as Soviet Russia claims to be a protocol power it will be necessary to find some *modus vivendi* with Karakhan when the group is handling protocol business. Those who know Karakhan best think this will not be difficult once he is given recognition as dean, the lack of which he has hitherto keenly felt.

5. Recently Karakhan sent the protocol powers a note protesting against the erection of hurdles by the American guard on what he called the "Russian glacis." He was informed by powers in reply with appropriate references to the protocols of 1901⁶⁰ and 1904⁶¹ that there was no "Russian glacis"; that the entire glacis was international property; that the American guard in holding the portion of it adjoining the Russian Legation property were merely discharging the duties which had been assigned them by the senior commandant and that equitation was a part of their military training.

SCHURMAN

707.1161/22 : Telegram

The Secretary of State to the Minister in China (Schurman)

WASHINGTON, March 14, 1925—5 p. m.

41. Your telegram No. 100, March 11, 3 P. M., paragraph 3. The Department believes that the communications of the Ministers to Karakhan and to the Chinese Government should be as informal as possible, and should avoid any intimation that his status as a member and as Dean of the Diplomatic Body results from the action of the Ministers rather than from the fact of his recognition by the Chinese Government as Soviet Ambassador.

KELLOGG

707.1161/24 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, April 21, 1925—4 p. m.

[Received April 21—9:15 a. m.]

161. Legation's 109, March 17, 4 p. m.⁶² This morning the Heads of Legation requested the Italian Minister communicate the follow-

⁶⁰ *Foreign Relations*, 1901, appendix (Affairs in China), p. 312.

⁶¹ John V. A. MacMurray (ed.), *Treaties and Agreements With and Concerning China, 1894-1919* (New York, Oxford University Press, 1921), vol. 1, p. 315.

⁶² Not printed.

ing orally to Karakhan and to Chinese Government and authorize[d] Mr. Cerruti to leave an *aide-mémoire* in both cases if so requested. Translation:

"The Ministers and Chargés d'Affaires accredited near the Chinese Government have examined the communication which His Excellency the Ambassador of the Union of Socialist Soviet Republics has been good enough to bring to their notice through the Italian Minister in regard to his position in the diplomatic body.

His Excellency Mr. Karakhan having been accredited by his Government and agreed to by the Chinese Government as Ambassador, the Ministers and Chargés d'Affaires consider him as dean of the diplomatic body with the prerogatives and functions which this charge carries with it in all the capitals, notably from the point of view of protocol on the occasion of receptions, ceremonies and other official meetings to [at?] which the diplomatic representatives are to be present in a body."

A copy of this message has been mailed to Tokio.

MAYER

707.1161/25 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, April 25, 1925—11 a. m.

[Received April 25—5:28 a. m.]

172. My 161, April 21, 4 p. m.

1. When Italian Minister informed Karakhan regarding deanship, latter expressed desire to enter into social relations with chiefs of mission of powers which have not recognized Soviets and inquired whether if he left cards on aforementioned diplomatic representatives they would return their cards to him.

2. Netherlands Chargé is telegraphing for instructions while Belgian Minister is prepared to return Karakhan's card. Despite fact that Soviet Ambassador is now recognized as dean for ceremonial purposes, I see no reason why representative of the United States should enter into even slightest social relations with him or further official relations than above recognition implies. In this connection I refer to Department's instruction to American Minister at Vienna⁶³ top page 1, May 1924, *Monthly Political Report*, serial 14.⁶⁴

3. Telegraphic instructions respectfully requested. I should greatly appreciate any mail instructions Department may care to give concerning attitude I should adopt in respect of relations with Karakhan as doyen of diplomatic body.

MAYER

⁶³ Telegram No. 24, May 27, 1924, to the Minister in Austria, *Foreign Relations*, 1924, vol. II, p. 675.

⁶⁴ Not published.

707.1161/25 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, April 30, 1925—5 p. m.

89. Your 172, April 25, 11 a. m. The following telegram, August 28, 1924, to the Legation at Helsingfors is quoted for your guidance with regard to your relations with Karakhan:

"There should be no difficulty in informal and courteous relations, as between two gentlemen, with respect to the representative at the capital to which you are accredited, of a régime not recognized by this Government. I had no difficulty when I attended the celebration of the Centenary of Brazilian Independence at Rio de Janeiro in 1922 in meeting and having cordial relations with the representative of Mexico, although this Government had not recognized the Mexican Government. Of course such personal and private relations largely depend on the character and bearing of others, but ordinary courtesies of a personal nature need never embarrass this Government in maintaining its attitude of non-recognition. Hughes"

See also Department's circular telegram August 27, 1 p. m.⁶⁵

The fact that we have not recognized the Moscow régime should cause you no embarrassment in your social relations with the members of the diplomatic corps in Peking. While you should avoid entering into any relations with Karakhan of an official character, this should not be interpreted as precluding those purely social and unofficial relationships which tend to arise out of association in the diplomatic corps and the special position of Karakhan in that body. You should receive Karakhan informally if he should call on you, and in return for his call or for his card should send your official card, writing on it "The Dean of the Diplomatic Body" in order to avoid any possibility of its being made to appear that you are entering into relations with him officially in his capacity as representing the Soviet Régime. In the course of any subsequent social relations with him you should make use of your personal card.

Repeat to Tokyo as #53 for information.

KELLOGG

701.6193/74

The Chargé in China (Mayer) to the Secretary of State

No. 2962

PEKING, May 4, 1925.

[Received June 3.]

SIR: I have the honor to refer to my telegrams No. 161 and No. 172 of April 21, 4 p. m., and April 25, 11 a. m., respectively, relative to

⁶⁵ See telegram No. 18, Aug. 26, 1924, to the Chargé in Finland, and footnote 1, *Foreign Relations*, 1924, vol. II, p. 676.

the recognition of Mr. Karakhan, Ambassador of the Union of Soviet Socialist Republics at Peking, as Dean of the Diplomatic Corps for ceremonial purposes.

I now wish to report that at the time that Mr. Cerruti, the Italian Minister notified Mr. Karakhan of his recognition as Dean, the latter requested to be informed whether he was also Dean of the Protocol Powers. The Italian Minister reported this question to the Diplomatic Body. Considerable discussion ensued, in which the French Minister and I expressed the point of view that we should not take the Soviet Ambassador too seriously; that, if we viewed his request too technically, we should undoubtedly be led into a very unfortunate situation. We stated that we were of the opinion that Mr. Karakhan was *sui generis* and should be so treated, that we were opposed to admitting him as either Doyen or a participant in meetings of Chiefs of Mission respecting the Protocol. The British Chargé expressed himself of the same opinion, and stated that he had received categorical instructions from his Government against permitting Mr. Karakhan to participate as a representative of a Protocol Power.

In concluding, it was unanimously agreed that the Heads of Legation, since the Diplomatic Body had now been abolished in its previous form, should simply meet together, when occasion demanded it, as officials with a common interest and in this way could include in such meetings only those persons with whom they desired to meet. The Italian Minister was, therefore, requested to reply in a negative manner to Mr. Karakhan's request, and in the above sense. This Mr. Cerruti has done.

There is transmitted herewith enclosed, for the Department's information, a copy of an article in regard to Mr. Karakhan's recognition as Dean of the Diplomatic Corps, which appeared in the *Peking Leader* of April 23, 1925.⁶⁶

I have [etc.]

FERDINAND MAYER

FURTHER CONSIDERATION BY THE AMERICAN AND BRITISH GOVERNMENTS OF MEANS FOR EFFECTIVELY PREVENTING THE TRAFFIC IN ARMS WITH CHINA⁶⁷

893.113/818

The British Ambassador (Howard) to the Secretary of State

No. 252

WASHINGTON, March 12, 1925.

SIR: With reference to the Honourable Charles E. Hughes' Note of the 24th of December last⁶⁸ and previous correspondence respect-

⁶⁶ Not reprinted.

⁶⁷ For previous correspondence concerning efforts to prevent the traffic in arms with China, see *Foreign Relations*, 1924, vol. I, pp. 530 ff.

⁶⁸ *Ibid.*, p. 541.

ing the suggested prohibition of export of aircraft to China and the possibility of strengthening the Arms Embargo Agreement of 1919,⁶⁹ I have the honour to state that I have received instructions from His Majesty's Principal Secretary of State to submit to your attention the following observations.

His Majesty's Government do not consider, after an exchange of views with the French Government, that there is any hope of success for a tripartite agreement prohibiting the export of aircraft to China, but Mr. Chamberlain⁷⁰ would be glad to instruct His Majesty's Ambassador at Paris to support his United States Colleague there in any steps that the latter may be instructed to take to that end. I am further desired to state that Mr. Chamberlain is consulting the French Government as to the general question of the export of munitions of war to China.

As regards this latter question Mr. Chamberlain however agrees with the views of the United States Government as expressed in Mr. Hughes' note to me of December 24th last, namely, that it is now doubtful whether further progress can be made in strengthening the China Arms Embargo on the lines contemplated at the Washington Conference. He also agrees that what has been effected is not wholly unsatisfactory.

His Majesty's Government intend, for the present at any rate, to continue their policy of doing all that lies in their power to make the embargo a reality. They will continue to maintain, for instance, the stringent administrative measures which penalize British merchants and manufacturers for the benefit of their continental competitors who supply China with weapons and explosives; and they will continue to discourage British Subjects from participating in any way in such transactions even though this involves the loss of much profitable business to the London insurance market. To this end His Majesty's Government have published a declaration explaining their attitude and the Administrative measures by which their policy is enforced.

I have [etc.]

ESME HOWARD

893.113/820

The British Ambassador (Howard) to the Secretary of State

AIDE MEMOIRE

Referring to his Note No. 252 of March 12th respecting the suggested prohibition of export of aircraft to China and the possibility of strengthening the Arms Embargo Agreement of 1919, Sir Esme

⁶⁹ See *Foreign Relations*, 1919, vol. I, pp. 667 ff.

⁷⁰ J. Austen Chamberlain, British Secretary of State for Foreign Affairs.

Howard has been instructed by Mr. Chamberlain to bring the following points to the attention of Mr. Kellogg.

It appears not altogether improbable that at the forthcoming Conference on Arms Traffic to be held at Geneva in May⁷¹ the question may arise whether China should be scheduled as a prohibited area.

There is no doubt that there is cause for grave disquiet as regards the present state of China. Sooner or later the change in the conditions of Chinese internecine warfare, brought about by the increasing supply of modern weapons, may involve the Powers in increased military commitments in the Far East. This is a matter of international concern and it is for consideration whether, since the present Arms Embargo Agreement has not proved capable of arresting the progress, some more comprehensive international remedy should not be sought. With this end in view Mr. Chamberlain recently invited the views of His Majesty's Minister in Peking, Sir R. Macleay, of whose reply Sir Esme Howard begs to enclose a copy.⁷²

In the opinion of His Majesty's Government the Powers, so long as they are unable or unwilling effectively to prevent their nationals from making money out of a traffic that merely increases the miseries of the Chinese people, are exposed to some measure of moral reproach and are in a position less strong than they would be otherwise to deal with the calumnies of the agitators who exasperate anti-foreign feeling by representing the sufferings of China as due to the "imperialism" and greed of foreigners.

Again, so long as they cannot keep arms out of China, the hands of the Powers are *pro tanto* weakened for any pacific influence they may wish to exert to promote the evolution of a stable and effective Government in China which is their prime interest in the Far East—That is impossible so long as China swarms with hordes of soldiers who are indistinguishable from brigands and the difficulty of disbanding these hordes is perpetuated so long as military adventurers can obtain copious supplies of modern weapons from Europe.

His Majesty's Government would therefore be very glad to know how the United States Government consider that this serious situation can best be met, how they would view a possible proposal to place China on the list of prohibited areas and, failing this, whether they can suggest any other means of effective international cooperation to cope with this evil which experience has shown the Arms Embargo Agreement is insufficient to check. His Majesty's Government have themselves no intention of bringing forward this proposal but they are earnestly desirous of cooperating with the United States Government in any way possible in order to find an exit from the present impasse.

⁷¹ See pp. 26 ff.

⁷² Not printed.

Sir Esme Howard would be grateful to learn the views of the United States Government on this subject as soon as possible in order to communicate them to Mr. Chamberlain without delay.

[WASHINGTON,] *March 16, 1925.*

893.113/826

The British Ambassador (Howard) to the Secretary of State

No. 302

WASHINGTON, *March 25, 1925.*

SIR: With reference to my *Aide-Memoire* of March 16th which I had the honour to communicate to you in my letter of the same date⁷⁸ regarding the Chinese Arms Traffic, I have the honour to inform you that I learn from His Majesty's Principal Secretary of State that they have been obliged to yield to the persistence of the French Government that aircraft and parts certified by the Government of the country of origin as being of commercial type cannot legally be detained in transit to the Far East.

Mr. Chamberlain has instructed me to add that should the United States Government see their way to exert pressure on the French Government to stop this traffic it would, in the opinion of His Majesty's Government, be most useful.

In communicating to you the above, I have the honour to ask that you will be so good as to inform me at your earliest convenience of the views of the United States Government on this question.

I have [etc.]

(For the Ambassador)

H. G. CHILTON

893.113/818

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, *April 8, 1925.*

EXCELLENCY: I have the honor to acknowledge the receipt of your Notes No. 252 of March 12, 1925, and No. 302 of March 25, 1925, in regard to the China Arms Embargo Agreement of 1919 and the suggested prohibition of the export of aircraft to China, and to express my appreciation of the offer of the British Government to instruct its Ambassador at Paris to support his American colleague in any steps that the latter may be instructed to take with reference to obtaining the assent of the French Government to a tripartite agreement concerning aircraft. This Government, however, shares.

⁷⁸ Covering letter not printed.

the view of the British Government that there is little, if any, hope of success for the conclusion of such a tripartite agreement at the present time, and it does not therefore now contemplate approaching the French Government on the matter. This Government feels itself the less disposed to do so in view of the fact that it would, as stated in Mr. Hughes' note to you of December 24[20], 1924,⁷⁴ "find it difficult to obligate itself in the matter without reservation concerning the legal limitations of its competence with regard to the export of aircraft."

Although this Government does not feel, in view of its own limitations, that it can propose to the French Government an absolute prohibition on the export of aircraft to China, it purposes, nevertheless, to continue, as it has in the past, to draw the attention of the French Government to important cases of exportation of aircraft, emphasizing the non-existence of commercial aviation in China and the view that, for all practical purposes, all aircraft destined for China should be considered as within the scope of the embargo. Such is the position which this Government has taken administratively; and, as was stated in the note above mentioned, it has for a period of over two years (and with entire success, as it understands) discouraged the exportation of any kind of aircraft to China since it appears that at present there is no commercial aviation in China and since the experience has been that shipments of this character have invariably fallen into the hands of militarists and been utilized by them for military purposes.

With reference to the question of the possibility of strengthening the China Arms Embargo Agreement of 1919, I am glad to note that the views of the British Government are in accord with those of this Government as expressed in its note of December 24, 1924,⁷⁵ to which you refer. I also note with much satisfaction that it is the present purpose of the British Government to continue to do all that lies within its power to render the embargo more effective. Being convinced that, apart from other considerations, the present disturbed conditions in China, which show no signs of abating, require the rigorous suppression of the export of arms and munitions to that country, this Government likewise purposes to do all that it can to make the embargo thoroughly effective. In this connection, your attention is invited to the action of the United States Court for China at Shanghai, which recently fined and sentenced to a year's penal servitude the master of the American sailing ship *Talbot* for a violation of the American laws upon this subject,

Accept [etc.]

FRANK B. KELLOGG

⁷⁴ *Foreign Relations*, 1924, vol. I, p. 540.

⁷⁵ *Ibid.*, p. 541.

500 A.14/187a

The Secretary of State to the British Ambassador (Howard)

The Secretary of State presents his compliments to His Excellency, the Ambassador of Great Britain, and has the honor to acknowledge the receipt of confidential *Aide Memoires* dated March 16 and April 2, 1925,⁷⁶ with further reference to the prohibition on the exportation of aircraft to China and the possibility of strengthening the China Arms Embargo Agreement of 1919. It is noted that the Ambassador suggests that it is not altogether improbable that the question of traffic in arms with China may come up for consideration at the proposed Conference at Geneva on May 4 although the British Government has no intention of bringing forward this subject.

The Ambassador kindly transmits for the consideration of the Department a copy of a memorandum prepared by Sir Roland Macleay,⁷⁷ the British Minister at Peking, setting forth his views with respect to the China arms question. It is noted that the Minister considers that it would be impracticable to include China in the category of prohibited areas provided for in a draft convention for the control of the traffic in arms which convention is to be considered at Geneva on May 4.

In the light of recent correspondence, it seems unlikely that a general international agreement could be reached at this time for further effective measures of control of the traffic in arms with China, such for example, as contained in the resolutions proposed in 1922 at the Conference on the Limitation of Armaments.⁷⁸

This Government therefore doubts whether any useful purpose could be served by a discussion of the China arms question at the Geneva Conference, the purpose of which, it is understood, is to deal with the question of the general international trade rather than with remedies for the special, and it is to be hoped temporary, conditions which now prevail in China.

It may be added that this Government would not be inclined to support the suggestion that China should be placed in the so-called prohibited areas as it is felt that such a proposal would serve merely as an irritant without tending toward a more effective supervision of the trade in arms with that country. The view of this Government with respect to the China arms question is set forth more fully in its note of April 8, 1925.

WASHINGTON, April 15, 1925.

⁷⁶ Latter not printed.

⁷⁷ Not printed.

⁷⁸ See *Conference on the Limitation of Armament, Washington, November 12, 1921-February 6, 1922* (Washington, Government Printing Office, 1922), pp. 1416, 1466, 1474, 1476, 1480, 1482, 1484, 1492.

**PARTICIPATION BY THE UNITED STATES IN EFFORTS TO SOLVE
PROBLEMS ARISING FROM THE DISTURBANCES AT SHANGHAI,
MAY 30, 1925**

893.5045/56 : Telegram

*The Consul General at Shanghai (Cunningham) to the Secretary
of State*

SHANGHAI, May 31, 1925—2 p. m.

[Received May 31—10:34 a. m.]

Yesterday students from local schools and strikers from Japanese mills began organizing tour of speech making and parade in International Settlement protesting against killing of Chinese laborers in Japanese mill, prosecution of strikers in the Mixed Court and contemplated measures of rate payers regarding press regulations and wharfage dues. The police ordered discontinuance which was ignored, whereupon several leaders were arrested and taken to Louza police station on Nanking Road. Soon the students became a threatening mob assaulting 2 foreign police constables, completely held up traffic on Nanking Road and finally attempted to force an entrance to Louza police station threatening the lives of foreigners. The order was given to fire and 3 were killed, 6 others succumbed last night and probably some 20 others wounded. The police are considered to have acted in the only possible way consistent with the situation. The mob distributed violent circulars of Bolshevik character proclaiming that present conditions were due to imperialism of Great Britain, United States, France and Japan, the anti-Japanese circulars being strongest in language and most numerous. Reserve police called out yesterday and certain volunteer organizations ordered to stand by.

Some indications that there will be a general strike soon, probably tomorrow.

CUNNINGHAM

893.5045/181

*The Chinese Minister for Foreign Affairs (Shen) to the Italian
Minister in China (Cerruti), Senior Minister⁷⁹*

[Translation]

PEKING, June 1, 1925.

MR. MINISTER: I have the honor to call the serious attention of Your Excellency to the following unfortunate fact which occurred on May 30th last, in the International Concession at Shanghai:

⁷⁹ Transmitted by the American Minister in China as an enclosure to his despatch No. 3045, June 10; received July 11. The Minister reported his receipt of this note in telegram No. 198, June 2 (not printed).

"Following the arrest of students and acts of violence against Chinese workmen, several of whom were wounded, a certain number of students from different universities of Shanghai went, in the afternoon of May 30th last, to the Police Station of the International Concession as a sign of protest and made speeches. The armed intervention of the Police resulted in the arrest of more than forty students, four students being killed on the spot, six students being seriously wounded two of whom succumbed shortly after, and seventeen passers-by being wounded three of whom died later."

In learning with emotion of the fact mentioned above, I beg leave to state that whatever may be the character of their demonstration, the students who are young men of good family, very patriotic and unarmed, cannot, in any case, be treated as ordinary malefactors and that instead of quieting them by appropriate means, the Police resorted to extreme means which are essentially condemned by humanity and justice.

I find myself, therefore, absolutely obliged to address to Your Excellency the most formal protest, reserving the right to make, as soon as subsequent reports giving complete details reach me, all the claims which will result from this deplorable incident, for which the authorities of the Concession are entirely responsible.

Moreover, I would ask Your Excellency to be good enough to inform the Ministers of the interested Powers of the foregoing, and to give the necessary urgent instructions to the Consular authorities at Shanghai to set at liberty immediately the arrested persons and come to an agreement there with the Special Commissioner for Foreign Affairs of that city, in order to prevent the possible recurrence of such cases.

I have [etc.]

[File copy not signed]

893.5045/60 : Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, June 3, 1925—noon.

[Received June 3—8:35 a. m.]

Summarizing events since my telegram of May 31, 2 p. m., after several hours' deliberation on May 31, 7 p. m., general strike resolutions were passed by students and street associations to become effective June 1st and demands were made and wild resolutions passed on all conceivable questions. June 1st Chinese business houses in the International Settlement were closed in obedience to strike resolu-

tions. Students have massed repeatedly on Nanking Road and twice have been repulsed by the police with casualties.

The chairman of the Chinese general Chamber of Commerce joined in some of the resolutions adopted but thereafter he assured the chairman of the Municipal Council that the chairman was not in sympathy with what had been done and that he gave his assent under compulsion. The same sentiment has been conveyed to officials during the night and it is hoped that the Chamber of Commerce is not in sympathy with the resolutions and will use its influence to restore law and order. It is believed that subsequent events have placed the Chamber of Commerce as officially supporting the above-named strike although leading members are unquestionably silently endeavoring to secure an adjustment so that normalcy may be restored.

Also on June 1st the bankers' association after several hours' deliberation decided to present demands to the Shanghai Municipal Council to punish police officers and demand compensation for the killed and wounded. This is regarded as most significantly serious.

June 1st chairman of the Municipal Council requested the consular body to secure naval force adequate to insure an aggregate landing party of two thousand men to guard public utilities and also to convince antistrike party of the ability of foreigners to protect those willing to continue work. The request was transmitted to the Legations by the interested consuls.

On June 1st Municipal Council proclaimed a state of emergency and the Shanghai volunteer corps was fully mobilized.

Second telegram will follow.

CUNNINGHAM

893.5045/62 : Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, June 3, 1925—3 p. m.

[Received June 3—2:37 p. m.]

Continuing my June 3, noon. Forty-nine who were arrested Saturday and Monday were arraigned in the Mixed Court today before Assessor Jacobs and Magistrate Kuan on charge of rioting. Two were discharged proving alibis, seven were remanded without bail, five on \$100 bail, and the remainder on \$5 bail.

The rate payers' meeting called for 5 o'clock on the 2nd, which has been the target of the students, met without quorum and therefore no action was taken on the questions proposed. Five o'clock 200

American and 200 Italian bluejackets were landed to guard light and water supplies.

At 6 p. m. several Chinese fired upon volunteers and police from the street near and later within the new World Building on Nanking Road, wounding a volunteer, Dr. T. G. McMartin, an American. Please notify his mother through George Williams, 1100 Cobb Building, Seattle, that McMartin's [injuries?] consist of only slight wounds. This attack was severe and lasted perhaps one-quarter of an hour and indicates that the municipal authorities are to be attacked in future in a clandestine manner. With the introduction of sniping by students the immediate need additional war vessels is increased. Two British cruisers are expected today.

Conditions are regarded exceedingly serious and indications are that the activities will not be entirely confined to Shanghai and also there are persistent rumors that the Chapei police and volunteers will possibly join students. It is believed that the municipal authorities have conditions well in hand and it is certain that the commercial interests, foreign organizations and individual Chinese are working to secure restoration of normal conditions. All shops in the International Settlement are still closed. The strike has extended and includes aside from cotton-mill workmen probably fifty thousand.

Third telegram will follow.

CUNNINGHAM

893.5045/61 : Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, June 3, 1925—5 p. m.

[Received June 3—9:33 a. m.]

Continuing my June 3, 3 p. m. On June 2nd many meetings were held and violent resolutions were passed by various meetings such as: 1st, that police officers must be humiliated and intimidated; 2d, groups of men should be sent to create disturbances; 3d, traffic should be interrupted; 4th, the delivery of mail or telegrams prevented; 5th, infliction of damage upon property of persons opposed to the students; 6th, that measures be taken to cut off supplies of provisions and materials used for industrial and business purposes; 7th, creation of disturbances at various residencies; 8th, boycott of foreign bankers be rigidly enforced; 9th, all schools in Shanghai to be requested to join the general strike. Handbills circulated have denounced foreigners for murdering Chinese and advocate the

extension of the strike to the public utilities and workmen indispensable [to?] foreigners, that is, electricity department, Shanghai Water Works Company, Shanghai Gas Company, Shanghai Mutual Telephone Company, Shanghai Tramway Company, all chauffeurs, cooks, clerks, policemen and detectives. It is hoped that the propagandists will not realize all their demands.

CUNNINGHAM

893.5045/63 : Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, June 4, 1925—6 p. m.

[Received June 4—8:33 a. m.]

New developments today include strike of dining-room boys, Astor House and some other hotels, Shanghai club and domestic servants. Strike seems to be extending and is certainly more effective.

Chinese Chamber of Commerce is now approaching foreign chambers of commerce to bring about better conditions.

Great Eastern and Burlington Hotels were searched this morning and considerable Bolshevik literature and munitions was [were] found in certain rooms. All public wharves expecting [excepting?] Dollar and Jardine Matheson are closed on account of strike. Chinese banks have been closed for 2 days.

CUNNINGHAM

893.5045/63 : Telegram

The Secretary of State to the Consul General at Shanghai (Cunningham)

WASHINGTON, June 4, 1925—5 p. m.

Your June 4, 6 p. m. and previous telegrams same subject.

Department approves the measures taken by you and the Commander-in-Chief as reported by you for the protection of the lives and property of American citizens at Shanghai. Conferences have taken place here with a view to affording further facilities for this purpose should they be necessary. While regretting the turn of events, the Department is anxious that all needful measures should be employed to prevent the further spread of the trouble and to afford adequate protection to American lives and property. Should any action be contemplated which goes beyond this function Department desires to be promptly informed.

Department suggests that in telegraphing the Legation concerning developments at Shanghai you state whether similar information is being telegraphed the Department. This will avoid duplication. Repeat to Peking.

KELLOGG

893.5045/86 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 4, 1925—5 p. m.

[Received 5:45 p. m.]

202. My 200, June 3, 11 a. m.⁸⁰ Morning of June 3 bands students throughout Peking harangued passers-by on Shanghai incidents and violently upheld following demands which also were printed on handbills: Punishment of those responsible for Shanghai killing from consuls to Indian policemen; release and indemnification of arrested students; apologies from foreign governments to Chinese people; aid strikers in Shanghai, Tsingtau, Japanese mills; abolition of foreign concessions and extraterritoriality; withdrawal of foreign military forces from China including war vessels; abolition of unequal treaties and special privileges; economic boycott against foreigners; refusal to afford foreigners service or food; overthrow traitorous Chinese Government; overthrow imperialism.

Japan and Great Britain singled out for most bitter attack. Latter apparently considered responsible for Shanghai police.

2. In the afternoon orderly parade some thousands of students representing 23 schools including missionary institutions conducted demonstration along above lines. Called on President and Minister for Foreign Affairs. On being refused permission to enter Diplomatic Quarter most acquiesced but small band extremists headed by woman student attempted forcible entrance and failed as gates were closed. Other entrances guarded but no clash occurred. Street lecturing continues today and it is rumored that students plan systematic continued demonstrations. Apparently little local interest except among students and Chinese journalists.

3. American educational institutions apparently embarrassed by desire of their Chinese students and faculties to issue violently denunciatory statements. In an effort to curb these extravagant declarations and yet convince Chinese people of their impartial and just position, faculties of some American and union missionary institu-

⁸⁰ Not printed.

tions have published statements reflecting on actions of Shanghai police and sympathizing with demands for the abolition of "resented privileges" enjoyed by foreigners. In informal conversations with representative American missionaries, Legation has indicated grave inexpediency of such pronouncement at this stage.

4. Chinese Government has sent Tsai Ting-kan and Vice Minister for Foreign Affairs Tseng to Shanghai to report on facts and method of peaceful adjustment. On request Legations concerned have asked their consuls at Shanghai to give friendly assistance. Lo, who was recently sent to Foochow by Foreign Office, likewise proceeding Shanghai on similar mission though informally and probably confidentially.

MAYER

893.5045/69 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 4, 1925—7 p. m.

[Received June 4—6:25 p. m.]

203. My 198, June 2, 8 p. m.⁸¹

1. Following note handed today to Foreign Office by senior minister and made public:

["(a) I have the honor in the name of my colleagues and in mine to acknowledge the receipt of the letter dated the 1st of this month ⁸² which you were good enough to address me in regard to the disorders which occurred in the International Settlement of Shanghai on May 30, last.

(b) While deploring with you the events referred to during which a certain number of unfortunate victims were killed and where others have been seriously wounded, we believe it necessary to specify the circumstances under which the police was led to make use of its arms.

(c) Demonstrating groups who were in the act of distributing subversive and clearly antforeign pamphlets in the Concession on Nanking Road were requested to disperse and the leaders were arrested. The crowd which refused to obey the orders of the police then attacked them and attempted an assault on the police station.

(d) It was then only that the police made use of their arms.

(e) It would therefore result that the responsibility of the events which followed rests on the demonstrators and not upon the authorities of the Concession.

(f) On the other hand subsequently the same authorities gave proof that they were very well disposed and the Mixed Court before

⁸¹ Not printed.

⁸² *Ante*, p. 648.

whom the culprits who were arrested had been summoned ordered their provisional release on bail.

(g) While awaiting further information, we hope that the Chinese Government will continue to envisage this unfortunate incident with the same conciliatory spirit which inspires the arrested [interested] diplomatic representatives to the end that order and tranquillity may be reestablished at Shanghai with the least possible delay."

2. Unless otherwise instructed will not telegraph in full Chinese Government's note of June 1st which is going forward next pouch.⁸³

3. Senior minister authorized at a meeting today of Heads of Legation to seek interview with Chief Executive to discuss Shanghai incident in order to show Chinese Government our [apparent omission] and conciliatory attitude.

4. Japanese Minister at meeting stated he had seen Tuan Chi-jui ⁸⁴ yesterday and had told latter that students to blame in Shanghai for not obeying police and attacking station. Tuan replied too many students killed; that he had appointed a committee to investigate and would await report that not advisable for Chinese Government to suppress students "rashly" but would do so "gradually."

5. According to Rosta, Karakhan ⁸⁵ has just addressed note to Wai Chiao Pu expressing great regret over Shanghai incident, sympathy for killing of students and requesting that his condolences be conveyed to their families. . . .

MAYER

893.5045/131

The Chinese Minister for Foreign Affairs (Shen) to the Italian Minister in China (Cerruti), Senior Minister ⁸⁶

[Translation ⁸⁷]

PEKING, June 4, 1925.

MR. MINISTER: With regard to the sanguinary affair at Shanghai, I had the honor to address to Your Excellency on the 1st instant a note in which I begged you to issue urgent instructions to the consular authorities of Shanghai in order to immediately set at liberty the arrested persons and to come to an agreement with the Special

⁸³ Full text, *ante*, p. 648.

⁸⁴ Chief Executive of the Provisional Government of China.

⁸⁵ Soviet Ambassador in China.

⁸⁶ Transmitted by the American Minister in China as an enclosure to his despatch No. 8045, June 10; received July 11. The Minister reported his receipt of this note in par. 5 of telegram No. 206, June 6, p. 658.

⁸⁷ File translation revised.

Commissioner for Foreign Affairs of that city, to prevent a repetition of similar incidents.

Contrary to my expectation, fresh reports of an ominous character continue to come to me, reports according to which the police of the International Concession of Shanghai on the 1st of June again fired on the crowd, killing 3 persons and wounding 18, while those persons who had been arrested have not all been set at liberty. Other reports are to the effect that the greater number of the victims have been wounded in the back while none of the police were either killed or wounded, which proves that the firing was in no way justified.

The violent attitude of the authorities of the International Concession, which has excited the dissatisfaction of the public in general, has created the gravest consequences, notably the declaration of strikes by merchants and Chinese workers of Shanghai.

So little respect for the elementary principles of humanity is disclosed by the authorities of the International Concession, who are entirely responsible, that I find myself constrained to address once more to Your Excellency a protest of the most energetic character.

Moreover, I pray Your Excellency to be so good as to communicate the foregoing to the Ministers of the interested powers and to send without delay the most urgent instructions to the consular authorities of Shanghai so that firing, which was the original cause of this incident, shall cease immediately, in order to avoid further bloodshed.

[File copy not signed]

893.5045/70 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 5, 1925—1 p. m.

[Received June 5—8:50 a. m.]

204. My 203, June 4, 7 p. m., paragraph 3 [5].

1. I deem it advisable for the information of the Department to quote below in full note sent by Karakhan to Foreign Office regarding Shanghai incident.

"Having learned with a feeling of profound grief of the shooting of several tens of Chinese workers and students at Shanghai, I wish to express to the Chinese people deepest sympathy and sorrow, certainly shared by the peoples of the Union of Soviet Socialist Republics.

I have the honor to request Your Excellency to accept the expression of my condolences and convey them to the bereaved families."

2. Yesterday Karakhan as dean of the diplomatic body sent identic notes to the Heads of Legation transmitting copy of telegram of

violent protest begging diplomatic body to intervene in the name of justice and instruct Settlement police force to cease outrages, received by him from the Shanghai Union of Teachers. His note states that he has telegraphed teachers' union that he has transmitted their message to diplomatic body as requested.

MAYER

893.00/6272

The Secretary of the Navy (Wilbur) to the Secretary of State

6320-388:2

WASHINGTON, 6 June, 1925.

SIR: The Navy Department is in receipt of a despatch from the Commander-in-Chief, Asiatic Fleet, in which it is stated that on June 1st, 1925, consular representatives at an international conference at Shanghai had requested an international naval force sufficient to land 2,000 men. The disposition of United States naval forces was given as follows:

There had been landed on June 2nd 200 men and on June 4th 40 men from the destroyers *Truxton*, *Pope*, and *Pillsbury* and from the *El Cano* and *Penguin*.

On June 5th there was due to arrive at Shanghai the destroyers *Hart* and *Stewart*, transporting the Flagship *Huron's* marines and there was also due in the *Isabel* the Commander of the Yangtze Patrol, Rear Admiral Chas. B. McVay, Jr.

On June 8th the *Jason* is due transporting 125 marines and the Gunboat *Sacramento* is due on the same date.

On June 3rd other war ships in port were three British, three French, one Japanese, and one Italian.

Respectfully,

CURTIS D. WILBUR

893.5045/131

*The Italian Minister in China (Cerruti), Senior Minister, to the Chinese Minister for Foreign Affairs (Shen)*⁸⁸

[Translation]

PEKING, June 6, 1925.

MR. MINISTER: I have the honor, in the name of my colleagues and in mine, to acknowledge the receipt of the note dated the fourth of

⁸⁸ Transmitted by the American Minister in China as an enclosure to his despatch No. 3045, June 10; received July 11. The Minister reported the sending of this note in par. 5 of telegram No. 206, June 6, p. 658.

this month which Your Excellency was good enough to address to me in regard to the disturbances at Shanghai.

While it is observed that the information received by the Chinese Government is incomplete, since it does not mention several attacks on foreigners, my colleagues and myself prefer to reserve our judgment until the receipt of additional information.

For this purpose the diplomatic representatives have decided to send to Shanghai, without delay, a delegation which will study the situation there and report to them.

In any case I wish to state to Your Excellency that the authorities of the International Concession, far from taking the violent attitude which the Chinese Government seems to attribute to them, maintained the greatest self-command, as is shown by the fact that during the last four days and in spite of numerous provocations, no serious incident has occurred at Shanghai.

I can renew to you the assurance already given orally that the Police of the International Concession has always had instructions to use its arms only if attacked and if it found itself in imminent danger. These orders have been renewed, specified, and will be strictly observed. No one desires more than the diplomatic representatives and the authorities of the International Concession to avoid further trouble.

Kindly accept [etc.]

V. CERUTI

893.5045/75

Memorandum by the Under Secretary of State (Grew)

[WASHINGTON,] June 6, 1925.

THE SITUATION AT SHANGHAI

The Chinese Minister called on me and said that he had talked the other night at the British Embassy with the Secretary who suggested that he come to the Department if he had any concrete proposals to make. The Minister said that no doubt we had much more information regarding the situation in Shanghai than he had, but that nevertheless he desired to leave nothing undone to cooperate with us with a view to bringing about the termination of the trouble. He said he had sent one of his young secretaries who was a student last year to the meeting of Chinese students in Washington the other night and had persuaded them materially to modify the resolution which they were sending to the Chinese students in Shanghai. Unfortunately, he had not had an opportunity to see the resolution in its final form or he would have endeavored to secure the elimination of the term "brutal assault".

The Minister said that the purpose of his visit was to ask if we would not make representations to the British Government to avoid extreme measures. I informed him subsequently, through Mr. Lockhart, that we did not feel ourselves in a position to make such representations at the present moment. (The Secretary had told me that he desired to take no step which might in any way interfere with the solidarity of the Powers.)

I then told the Minister that our instructions to our authorities in Shanghai were to the effect that they should take adequate measures for the protection of American lives and property, but to do nothing more. The Minister said it would have a very salutary effect if he could be authorized to let this be known in Shanghai. After consulting with the Secretary I asked Mr. Lockhart to inform the Minister, who was then in his office, that the Minister might telegraph to his Government and let it be known in Shanghai that our naval forces and marines were present in Shanghai only for the purpose of protecting American lives and property and that no other action was contemplated at the present time.

The Minister said that he considered it unfortunate that we had permitted the publication of Mr. Cunningham's despatch stating that the killing of the Chinese students was justified. It would have been all right if we had added that the killings were justified in order to protect American lives; that the Chinese students here had jumped at the conclusion that the attitude of the Consul General was that wholesale murders of Chinese were justified without giving adequate reasons therefor. He said he had explained to the Chinese students the meaning of the Consul General's message.

J[OSEPH] C. G[REW]

893.5045/74 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 6, 1925—6 p. m.

[Received June 6—1:50 p. m.]

206. My 203, June 4, 7 p. m.

1. At meeting of Heads of Legation this morning it was decided at my suggestion that Heads of Legation should send delegates to Shanghai leaving Peking June 8th to study the situation on the spot and report back to us. The principal reason for this action is to make a gesture to the Chinese Government and people evidenc-

ing conclusively our grave concern in the state of affairs at Shanghai with its attendant repercussions throughout China as well as our great interest in its proper solution at the earliest moment possible. We considered some such action imperative in order likewise that we should not be placed in a false light and open to accusations of inactivity and in order to afford the Chinese Government and those Chinese and foreigners seeking to calm the situation something for their use to this end. Our action is being given widest possible publicity.

2. Shanghai consular body is being assured that our action is no wise critical of them or in derogation of their authority but rather to assist them.

3. The delegation consists of Messrs. Tripier, acting counsellor of the French Legation, chairman; Greene of the American Legation; Shigemitsu, first secretary of the Japanese Legation; Vereker, first secretary of British Legation; Scaduto, first secretary of Italian Legation; and Ullens, first secretary of Belgian Legation.

4. We are giving the delegation confidential written instructions to put themselves at once in accord with the consular corps at Shanghai, to get in touch with the Chinese commissioners mentioned in paragraph 4 of my 202, June 4, 5 p. m. and to inquire into certain matters.

5. Following is résumé of further note from Foreign Office to Heads of Legation of June 4th and our reply thereto of even date:⁸⁹ Note energetically protests alleged violent [*sic*] International Settlement resulting in general strike and asks urgent instructions to Shanghai consular authorities to cease from further bloodshed. Reply states judgment of facts reserved by the diplomatic representatives concerned until receipt of further information. To secure this the interested diplomatic representatives will send to Shanghai without delay a delegation to study the situation and report. Reply gives most explicit assurance that police orders in the Settlement are to use arms only if attacked and that these orders have been renewed and will be strictly enforced and that none more desirous than foreign diplomatic representatives and Settlement authorities to avoid new troubles.

6. I have telegraphed Cunningham that while law and order must be maintained by all necessary force, if conciliatory measures will contribute to bring return to normal conditions I consider these should be used whenever possible.

MAYER

⁸⁹ See note of June 4 and the Senior Minister's reply, June 6, pp. 654 and 656.

898.5045/78 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 8, 1925—7 p. m.

[Received June 8—6:05 p. m.]

211. 1. Heads of Legation at meeting today decided on my initiation to suggest to consular body at Shanghai the reembarkation of part of the landing force if the local situation permitted, and other contingents thereof successively, such action to be left to the discretion of consular body. Heads of Legation suggested further that publicity be given to such measures if taken and consular body were requested to inform us of their decision in the matter in order that we might give publicity here.

2. Since situation at Shanghai apparently much improved, law and order generally prevailing there, I believe the above-suggested action strongly advisable in order to demonstrate to Chinese Government and people our desire to withdraw landing forces at Shanghai as soon as practicable, a desire evident to us but I believe not generally realized here. It is hoped that this in conjunction with the despatch of our delegation this morning to Shanghai will materially assist in relieving present universal tension in China without giving erroneous impression that we are not fully prepared to take necessary measures of defense.

3. Marshal Chang Tso-lin⁹⁰ yesterday caused me and other diplomatic representatives to be informed of his decision to send son to Shanghai to inquire into situation and to despatch forces to maintain order in the Chinese city. In order not to give foreigners a false impression these troops to be limited to two battalions of student officers expressly sent from Mukden in the belief that they would be more intelligent and better disciplined than ordinary soldiers. Consular body informed of above facts and our delegation directed to get in touch with Marshal Chang's son in accordance with the Marshal's expressed desire.

MAYER

898.5045/80 : Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, June 9, 1925—4 p. m.

[Received June 9—10:48 a. m.]

Referring to my telegram of June 3, 5 p. m. Trial of the rioters is proceeding today and the suggestion was made several days [ago!]

⁹⁰ Military overlord in Manchuria.

to Assessor Jacobs that great leniency be extended. Chinese representatives are manifesting general interest and employing counsel and consequently the trial will consume an unusual time, possibly days.

I propose that I support at the consular body meeting the appointment of an international foreign mission to investigate actions of the police on May 30th and that a Chinese representative be invited to watch the proceedings. Many Chinese and some Americans have urged that a Sino-foreign mission be appointed for this purpose but while theoretically this would contribute to the reconciliation of the Chinese, it is felt that it would be too great a sacrifice on the part of the administration of the International Settlement. Chinese will not be appeased until there is a public investigation of the actions of the police.

It is important to avoid, if possible, a boycott after the settlement of the strike and particularly boycott of American goods, and the advocacy by me of the above proposal would possibly contribute to the continued allegation [*sic*] good feeling of the Chinese toward Americans. There is a great probability that the Municipal Council will receive with favor the first proposal but the second would meet with decided opposition.

CUNNINGHAM

893.5045/81 : Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, June 10, 1925—11 a. m.

[Received June 10—7:39 a. m.]

Summarizing events since my June 3, 5 p. m.

American mission schools continue open although most classes are suspended allowing students freedom of coming and going at will. There is an exception in St. John's University which closed on the 2nd because students were agitators. The action of St. John's is commendable.

Shanghai University, not connected with any mission school, a purely Bolshevik institution recently organized, was closed by the police on June 4th.

June 6th, Chinese advisory committee of the Shanghai Municipal Council tendered resignations "in view of the tragic and cruel affair of last Saturday and of added casualties of these few days, and in view of the absence of any desire on the part of the Shanghai Municipal Council to punish the culprits and to do justice to the Chinese."

Also on June 6th, consular body in replying to Commissioner of Foreign Affairs stated, "There will also as a matter of course be an investigation by the authorities concerned into the action of the police officer in question, besides which the competent courts stand ready to deal with any complaints."

June 7th, Chinese general Chamber of Commerce issued instructions that the situation be maintained while the high commissioners were investigating, which has had an excellent effect. The high-water mark of danger was reached on the 3rd and 4th. Since then ostensibly conditions have inclined to improve in every way except in regard to the strike. Strike is becoming more deep seated and extended, some workers returning, others going out. Shops have remained closed and also native banks. On the 5th shops were closed in the French Concession and reopened on the 7th.

Naval landing party on the 6th consisted of 335 American, 300 French, 45 Japanese, 60 British and [Italian] 110. These are doing police work and replacing strikers in public utilities such as water and light. It would be extremely hazardous for the force to be reduced materially until the conclusion of the Mixed Court trial.

The question of the reduction of the force is being considered this afternoon by the municipal and consular authorities. There are only 15 percent of the Chinese police of the Settlement on strike and 15 percent of the volunteers have been demobilized.

The police on June 8th discovered 18 different new handbills all containing antiforeign sentiment. Protestations of organizations have been particularly bitter against British and Japanese as have been the handbills. Other organizations insist that the move is not antiforeign but is a protest against the police action and is directed against British and Japanese. . . .

CUNNINGHAM

893.5045/80 : Telegram

*The Secretary of State to the Consul General at Shanghai
(Cunningham)*

WASHINGTON, June 10, 1925—6 p. m.

Your June 9 4 p. m. Regarding the proposal that the Consular Body appoint an international foreign mission to investigate actions of the police the Department calls your attention to the investigation now being made by a commission of diplomatic secretaries and suggests consultation with this Commission and with the Diplomatic Body with a view to avoiding any conflicting judgment or duplication of effort. The Department agrees that in view of the peculiar

status of the International Settlement the appointment of a Sino-foreign mission would be inadvisable.

Repeat to Peking your June 9, 4 p. m. and reply.

KELLOGG

893.5045/85 : Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, June 11, 1925—5 p. m.

[Received June 11—9:42 a. m.]

[1.] General conditions appear greatly improved but strike is not subsiding perceptibly though many shops are opening.

[2.] Strike has extended to British and Japanese coast and river steamers, which is deplorable; but as no freight is available it is less serious than it would otherwise be.

3. Food Control announces ample supply.

4. Please announce that at present there is no cause for alarm for the safety of American lives and property and should conditions change the Department will be advised.

5. Admiral McVay, senior naval officer, has compiled the following notes in regard to up-river ports.

Naval vessels by mutual agreement have been stationed at practically every treaty port. Local civil and military authorities have situation well in hand and give ample assurance of protection, rendering unnecessary the landing of guards except in isolated cases and practically all of these have been withdrawn.

Above has been repeated the Legation.

CUNNINGHAM

893.5045/86 : Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, June 12, 1925—noon.

[Received June 12—6:30 a. m.]

Following telegram to the Legation repeated for the Department's information.

"June 12, noon. Referring to telegram of June 9, 4 p. m., in regard to the trials in the Mixed Court of rioters of May 30th, these were completed yesterday. Of the accused, 33 forfeited bail and 18 after trial were required to sign personal bond to keep the peace.

None were imprisoned or fined, the assessor believing that extreme leniency should be extended. All of the accused were students except 3, one of whom was a photographer, one an actor, and one a broker.["]

CUNNINGHAM

893.00/6284a : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, June 12, 1925—5 p. m.

107. Recent press articles appearing here commenting upon the present situation in China carry the suggestion that there exists a plot on the part of European Powers and Japan to draw the United States into action oppressive of China in order to further their own interests. The articles suggest that the troubles at Shanghai are not anti-foreign, but were due to British and Japanese aggressions. The writers of these articles advise that the United States must be careful not to become involved with those governments in repressive measures directed against the Chinese and vaguely intimate that they are voicing the views of officials of this Government.

The Department is concerned over the possibility of cabled reports of such articles appearing in the press in China, and desires to state for your information that these articles have received no sanction whatsoever from the Department, which deprecates any attempt to take advantage of this situation to promote the interests of one country at the expense of another.

Repeat to Tokyo as No. 61 and Shanghai.

KELLOGG

893.5045/88 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 12, 1925—6 p. m.

[Received June 13—3:42 a. m.]"¹

217. My 211, June 8, 7 p. m.

1. Following résumé of note of June 11 from Wai Chiao Pu to senior minister. Note criticises action of Settlement authorities, again condemns killing of Chinese and in view of nation-wide grief and indignation considers Settlement police should be disarmed and all troops withdrawn in order to facilitate negotiations. Requests issuance of urgent instructions to consular body, Shanghai, to this effect.

¹ Text printed from corrected copy received Jan. 7, 1926.

2. To which reply drafted at meeting of Heads of Legation this morning in substance as follows: Desiring to clear up as soon as possible distressing and dangerous situation, diplomatic representatives have instructed their delegation at Shanghai to consider with consular body and Chinese Government delegates, Shanghai, best means of finding remedy therefor. Diplomatic representatives recall to the attention of the Chinese Government its grave responsibility for maintaining order at Shanghai, Peking, and throughout China.

3. In presenting this note to Minister for Foreign Affairs, Monsieur Cerruti was authorized by Heads of Legation to call the attention of Chinese Government to advisability of its taking appropriate steps to put stop to further student agitation and demonstrations with particular reference to inflammatory handbills and placards depicting Chinese murdered by foreigners and advocating death to foreigners and the like.

4. President under date 10th instant stated officially Chang Tso-lin⁹² and Feng Yu-hsiang⁹³ with their principal generals have telegraphed Chief Executive regarding Shanghai disturbances. Chang upholds innocence of Shanghai student demonstrators, presents entirely inaccurate facts, refers to strikes and national excitement and predicts damage to international relations through British disregard of principles of justice. Places blame entirely on British. Promises full support to the Chief Executive and urges firm stand in protection of the people. Feng telegram also entirely exculpates Shanghai demonstrators, places blame on the British and stigmatizes police action as greatest disgrace to China in years. Telegram urges Chief Executive take firm stand; and states that if the British Government confesses crime and makes amends so much the better, but if not signers of telegram will support the union on behalf of justice, humanity, national sovereignty and people's lives even if signers perish in attempt in order to calm agitation and redress national humiliation. It is quite evident from these telegrams that militarists are making every effort to use present situation in order to cause Chinese people to forget antimilitarist feelings.

5. In this connection I am becoming increasingly concerned with question of harmful reaction upon the anticipated special conference⁹⁴ of continued student agitation and refusal or inability of Chinese Government to control situation. . . . I apprehend that continuation of student agitation and despatch of notes by Foreign Office to Heads of Legation will eventually result in eliminating Government's for-

⁹²Commander in chief of the Manchurian forces and virtual ruler of Manchuria.

⁹³Commander in chief of the People's Army and director general of Northwest Frontier Defence.

⁹⁴Special Conference on the Chinese Customs Tariff, pp. 833 ff.

eign sympathy and producing an atmosphere calculated to militate against successful conference. The singling out of Great Britain for attack which is increasing in animosity is singularly unfortunate in my opinion since as in the Washington Conference we and China must to a great extent depend upon British cooperation to achieve constructive action in special conference. I fear Chinese Government, so called, has not kept sufficiently in mind the bigger questions in its desire to use the present so-called patriotic agitation of the students and the attitude of the militarists indicated by the two proclamations summarized above to consolidate Government's position.

[Paraphrase.] I talked informally and confidentially yesterday with the secretary of the Minister for Foreign Affairs. I expressed myself to him to the above effect, of course omitting any reference to the desire of the Chinese Government to reap a benefit as suggested above. I suggest that it might be advisable for the Department to call the Chinese Minister's attention to this matter and to ask him to communicate to his Government on the subject.

6. At the beginning of the Shanghai incident the Japanese were reviled as much as the British but during last two days the British have been given most of the attention. It will be noticed that Chang and Feng did not mention Japan in their telegrams. I have reason to think that there is an effort to weaken the present prestige in China of the United States and the resulting influence of our country with the Chinese Government, the purpose of this effort being to enable Japan to pose as China's chief foreign friend. [End paraphrase.]

7. Thus far I have believed Chinese feeling is, generally speaking, nationalistic rather than antforeign with the exception of Great Britain where again I do not consider it antforeign in the sense of Boxer days. However the material at hand is very inflammable and a continuance of agitation and its manipulation by distribution of funds and otherwise throughout China may with some new incident create a situation full of menace to foreigners.

MAYER

893.5045/89 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 14, 1925—3 p. m.

[Received June 14—10:25 a. m.]

225. My 211, June 8, 7 p. m. American consul, Shanghai, reports that owing to improved situation part of defence forces have been withdrawn. Full publicity being given.

MAYER

893.00/6285 : Telegram

The Ambassador in Japan (Bancroft) to the Secretary of State

Tokyo, June 17, 1925—11 a. m.

[Received June 17—8:55 a. m.]

112. Your telegram to Peking number 107, June 13 [12], 5 p. m. Last evening I conveyed purport to Foreign Minister who expressed gratification.

BANCROFT

893.5045/96 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 19, 1925—6 p. m.

[Received June 19—5:35 p. m.]

237. My telegram number 217, June 12, 6 p. m., paragraph 2.

Number 1. Our delegation at Shanghai departed last night for Peking since unable to come to agreement with Chinese Government commission in regard to fixing the basis for possible accord between the diplomatic representatives concerned and the Chinese Government in respect of Shanghai incidents. We had restricted our delegation to the following four points: (1) indemnity to the victims, (2) simultaneous suspension of the Chinese chief of police and the inspector of Louza police station, commencement of [*pending?*] an administrative inquiry by the Municipal Council into the subject of the technical responsibility of the inspector, (3) agreement by the Chinese authorities to maintain order in all the Chinese districts of Shanghai outside the concessions and agreement for a return to work, this return to work to be followed automatically by (4) reembarkation of all the landing force and the complete demobilization of the International Concession. The Chinese delegation had received instructions to negotiate for a settlement on the spot believing that the Mixed Court question, representation on the Municipal Council and the like were questions directly connected with the Shanghai incidents, whereas we had limited our delegation's authority as above. These divergent instructions prevented successful negotiations at Shanghai.

2. At meeting of the Heads of Legation this morning the senior minister was authorized to inform the Chinese Government immediately that the interested diplomatic representatives decided to begin negotiations without delay; that in their opinion the immediate return [*settlement?*] of the Shanghai incidents themselves on basis of equity and justice must be object of the first agreement; that likewise if the Chinese Government expresses the desire the interested diplomatic representatives are disposed to request of their respective

Governments authorization to discuss in the most friendly spirit the propositions presented to their delegation at Shanghai concerning both the [re]organization of the International Settlement and the administration of justice in the said Settlement. This is being given widest publicity in the hope that it will prevent any unfortunate repercussion from the departure of our delegation from Shanghai and in order to demonstrate to the Chinese Government and people our earnest desire to settle the Shanghai incident itself at the earliest moment possible and to cooperate with the Chinese Government [in] the broader questions of a reorganization of the International Settlement if authorized to do so by our Governments.

3. The Heads of Legation decided to constitute the Italian Minister, the French Minister and myself a committee to negotiate with the Chinese Government in the above regard.

4. I believe this morning's *démarche* is a very wise step along the line of proper conciliation whenever possible. It likewise divides into two sections, for negotiation with the Chinese Government, the question of the actual shooting affrays themselves at Shanghai and the broader matter of a reorganization of the International Settlement. Not to make this differentiation and maintain it, would be to cause endless confusion and in effect in my opinion jeopardize the success in either direction. I construe the present state of affairs extremely critical; that the prescribed [*sic*] movement and agitation is essentially nationalist in character rather than antforeign; that we foreigners must make some concession to the Chinese before the agitation will subside and that if we do not do so speedily there are grave fears for the future. In my opinion the widespread agitation centers psychologically in the Shanghai incident; that therefore we should settle this as satisfactorily as possible at once when it is hoped the agitation throughout the country will subside temporarily at least.

5. The readjustment now going on between China and the foreign powers is greatly accelerated and exacerbated by the Shanghai incident and its widespread repercussion and is likewise being exploited in every manner possible by the Soviets. Just how much they had to do with the actual initiation of the Shanghai incident is at present impossible to say. While the situation in China is not yet out of [hand] I am alarmed at the potentialities unless something is done speedily and satisfactorily as regards a solution thereof.

MAYER

893.5045/97 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 20, 1925—3 p. m.

[Received June 20—9:15 a. m.]

238. My 237, June 19, 6 p. m.

1. When Minister for Foreign Affairs informed by senior minister of proposal as outlined in paragraph 2 of above, former expressed emphatic preference that negotiations should take place in Shanghai; that Peking was not desirable for that purpose, disturbances being likely in event of unsatisfactory course of negotiation. Likewise difficult for witnesses to be questioned at Peking. Senior minister enumerated distinct advantages of Peking over Shanghai in our opinion. After 2-hour discussion Minister for Foreign Affairs maintained attitude but said he would consult Tuan Chi-jui. Latter has now caused us to be informed of his preference for Shanghai as place for negotiations. Quite evident that one reason for this attitude is fear of Minister for Foreign Affairs in particular and Chinese Government in general of taking responsibility of direct negotiation at Peking.

2. At meeting of Heads of Legation this morning senior minister authorized to reply to Minister for Foreign Affairs that we consider there are substantial objections to satisfactory negotiation at Shanghai; that we trust Chinese Government will modify their attitude; that we shall hear report of our delegation arriving back today, and give final reply to Chinese Government's proposition thereafter. General opinion of Heads of Legation that, while greatly preferable negotiations should take place in Peking, we could not in the last analysis categorically refuse Chinese Government's proposition and would agree thereto even if same remained unchanged.

3. Argument by senior minister that much time would be saved if negotiations at Peking, did not appear of especial importance to Minister for Foreign Affairs who gave senior minister distinctly to understand that there was no especial hurry for settlement; that if achieved in two or three weeks it would be quite satisfactory. This is a distinct change in attitude of Chinese Government who heretofore have in every way urged a speedy settlement.

4. I shall telegraph later in regard to this change in attitude.

MAYER

893.5045/100 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 23, 1925—4 p. m.

[Received June 23—8:50 a. m.]

242. Following from consul general at Shanghai:

"June 22, 5 p. m. My June 20, noon. Students prevented publication on 20th by Chinese press decision of Chamber of Commerce to withdraw strike yesterday and today. Saturday afternoon after prolonged session and under student duress the spineless Chamber of Commerce rescinded its former decision to withdraw strike. Shops showing increasing inclination to open but remain nominally closed. All Chinese banks are closed. It is believed there will be no relaxation in strike until 26th. Conditions practically unchanged for 10 days.

General Chang has about 4,000 Fengtien troops here. They will be increased to 6,000 by the 24th. His assurances are satisfactory but practical assistance in maintaining order in Chinese territory not yet substantiated."

MAYER

701.0093 D 34
187 bis

*The Italian Minister in China (Cerruti), Senior Minister, to the American Chargé (Mayer)*⁹⁵

[Translation ⁹⁶]

Circular No. 187 bis
Subject: Events at Shanghai

PEKING, June 26, 1925.

The Senior minister has the honor to circulate herewith a note concerning the events at Shanghai which was addressed to him by the Waichiaopu June 24.

[Enclosure—Translation ⁹⁶]

The Chinese Minister for Foreign Affairs (Shen) to the Italian Minister in China (Cerruti), Senior Minister

PEKING, June 24, 1925.

MR. MINISTER: With reference to the killing of Chinese by the police of the International Settlement of Shanghai, the Chinese delegation presented 13 points for discussion at Shanghai with the delegation

⁹⁵ Copy (in French) received by the Department on September 9. The Chargé in China reported the receipt of the enclosed note from the Chinese Foreign Office in telegram No. 255, July 2.

⁹⁶ Supplied by the editor.

which was sent by the Ministers. Unfortunately they could not reach a settlement.

As it has now been decided to transfer the negotiations to Peking, I have the honor to submit to Your Excellency the proposals formulated by the Chinese delegation at Shanghai, as well as the views of the Chinese Government, on the subject of the revision of the treaties which is considered hereafter to be absolutely necessary. The 13 demands mentioned above are as follows:

1. Abolition of all extraordinary military measures.
2. Release of all Chinese who have been arrested in connection with this affair and reopening of all schools closed or occupied in the International Settlement.
3. Punishment of those to blame, who, pending their trial (on very grave charges), should be immediately suspended from their duties.
4. Indemnity to the victims (dead and wounded) and to the laborers, merchants, and students who have suffered loss as a result of this affair.
5. Formal apologies.
6. Restitution of the Mixed Court to the Chinese Government.
7. The Chinese employed in the factories and homes of foreigners, seamen, and workers who have struck because of the agitation produced by the incident shall be reinstated without reduction of pay for the period of the strike.
8. Liberal treatment for laborers, i. e., no punishment shall be inflicted if they wish to abstain from work.
9. Regarding the status of the International Settlement:
 - (a) The Chinese shall participate in the Municipal Council and rate payers' meetings. The rate payers will choose their representatives in proportion to the amount of the taxes paid by them. In voting they will have the same rights and privileges as the foreign voters.
 - (b) In determining the right to vote, examination shall be made to see whether properties actually belong to the titleholder, or whether he is simply an agent or representative. Only the actual owner will have the right to vote and if the property is held by an agent it is the real owner who will vote.
10. The Municipality shall not construct roads outside of the International Settlement; those which are already so constructed shall be ceded back unconditionally to the Chinese Government, which will have the control of them.
11. The regulations concerning the press, the rights of wharfage, and the stock exchanges should be repealed.
12. Chinese in the International Settlement shall have freedom of speech, of assembly, and of the press.
13. The Secretary of the Municipal Council, Benbow-Rowe, shall be dismissed.

These 13 demands represent only a part of the questions which must be settled in connection with the Shanghai incident. The Chinese Government is of the opinion that in order to assure defi-

nately friendly relations between China and the foreign powers and a permanent peace, all the unequal treaties which have been concluded in the past must be revised. For this purpose I have had the honor to address to Your Excellency today a note which you will receive at the same time and which explains the reasons for this demand.⁹⁸

I beg Your Excellency to be good enough to communicate this note to the interested ministers and hope that negotiations thereon will be opened as soon as possible in order to arrive at a prompt settlement, which is my most heartfelt desire.

I avail [etc.]

SHEN JUI-LIN

893.5045/102 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 27, 1925—4 p. m.

[Received June 27—8:20 a. m.]

252. Following from consul general, Shanghai :

"June 26, 5 p. m. All Chinese banks and most shops reopened this morning after having been closed since June 1st. Desperate attempt was made late last night by extremists to have agreement to reopen rescinded on account of affair at Canton.⁹⁹ There is a general appearance of normalcy except in the mill districts and harbor which remain unchanged. Mill strike settlement was deadlocked by an attempt to secure recognition of the labor unions.["]

MAYER

793.00/54 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, July 2, 1925—10 a. m.

[Received July 3—5 p. m.]

255. Department's 125, July 1, noon; ¹ 123, June 27, 3 p. m.; ² my 249, June 26, 4 p. m.; ³ my 238, June 20, 3 p. m., paragraph 2.

1. Simultaneously with presentation of identic note, reported in my 247, June 24, 6 p. m.,⁴ Chinese Government brought note to senior minister⁵ stating its willingness that negotiations respecting the Shanghai incident take place Peking but setting forth 13 points which the Chinese Government considered should be the basis for such negotiations. Even with the most sympathetic attitude towards

⁹⁸ See telegram No. 247, June 24, from the Chargé in China, p. 763.

⁹⁹ See telegram of June 24 from the consul general at Canton, p. 750.

¹ *Post*, p. 767.

² Not printed.

³ *Post*, p. 765.

⁴ *Post*, p. 763.

⁵ *Ante*, p. 670.

the Chinese Government's desires in the matter these points entirely unacceptable. They include matters not even germane to precise question to be decided, such as arrangements between employer and employee, dismissal of an official against whom there is no charge but that of having an irritating manner, and the like.

2. Through the senior minister the Heads of Legation concerned have informed Foreign Office that the 13 points for reasons above stated could not seriously be considered as affording basis for negotiations.

3. When the senior minister so acquainted the Minister for Foreign Affairs, latter stated that the two notes of June 24th must together form basis for anticipated negotiations. That is, Shanghai negotiations must include question of readjustment of treaty relations between China and the powers. Minister for Foreign Affairs still maintains position despite efforts by Monsieur Cerruti to show scope of our negotiations of necessity could not include the question of readjustment of treaty relations which we had referred to our respective Governments. The Chinese Government have asked Messrs. C. T. Wang, W. W. Yen and Admiral Tsai Ting-kan to constitute committee to negotiate with French and Italian Ministers and myself on behalf of interested diplomatic representatives. Heads of Legation have drafted agenda for negotiations which now being submitted to Chinese Government.

4. C. T. Wang has called upon me informally to ascertain my ideas regarding scope of the anticipated negotiations. He stated that without any doubt the question of readjustment of treaty regulations should be included in the anticipated negotiations, that otherwise neither he nor W. W. Yen would consent to serve. I told Dr. Wang that I could not speak authoritatively for my Government in respect of the question he raised having referred the note of June 24th to it for instructions. However I expressed personal opinion that any foreign government, no matter how sympathetically it might be inclined toward the aspirations of the Chinese in regard to readjustment of treaty relations, would need to feel certain that Chinese Government [was] capable of assuming additional obligations and responsibilities which revision of treaties would place upon it before foreign governments could consent to such revision. I asked Dr. Wang whether in his opinion present Chinese Government could satisfy this condition precedent. He replied emphatically that it could; that the source of all trouble and difficulties were [was] the special privileges and immunities of the treaties and once these were removed peace and order would prevail in China and a stable, effective government would ensue. I fear he is overoptimistic if sincere in these expressions and is putting the cart before the horse.

5. Three Chinese delegates referred to above are apparently jockeying for position vis-à-vis Foreign Office in an effort to escape responsibility for the settling of Shanghai incident. From reliable reports it would seem that the Chinese delegates have either resigned or told Foreign Office they will only negotiate Shanghai incident as part of larger subject including revision of the treaty. This makes it most difficult if not impossible for us to hasten settlement of Shanghai incidents in which apparently Chinese Government has lost interest in view of bigger question of treaty revision which it is now pushing to the fore. Should negotiations for settlement of Shanghai incidents not be begun early next week, through continued dilatory tactics of Chinese Government, I believe Heads of Legation must seriously contemplate informing Chinese Government that either latter shall cooperate immediately to [the] end that negotiation be begun, otherwise Heads of Legation will conclude that Chinese Government is willing to rely upon any settlement which foreign authorities may regard as just. In this connection action taken by Heads of Legation, reported in my number 257, July 2, 1 p. m.,⁶ is pertinent.

I refer as last resort of settlement Shanghai incidents to Permanent Court of International Justice in conjunction with League of Nations, discussed informally at meeting of Heads of Legation. Would Department favor such action? See Department's 46, March 1, 3 p. m., 1924, second paragraph.⁷

MAYER

893.5045/108 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, July 2, 1925—1 p. m.

[Received 2:30 p. m.]

257. Heads of Legation yesterday sent following instructions to senior consul at Shanghai in respect of the vicinity of Shanghai International Settlement involved in the incident of May 30th, last, and containing recommendations concerning revision of police regulations. It is proposed shortly to make public and inform Foreign Office of all except penultimate paragraph of the instruction. I shall report to the Department when release may be made:

"The representatives of the powers concerned consider it impracticable [*sic*], after a thorough examination of the incidents which took place on May 30th, last, at Shanghai, and, after having taken cognizance of the report of their delegates, have come to the following conclusions:

⁶ *Infra.*

⁷ *Foreign Relations*, 1924, vol. I, p. 569.

1. It is to be regretted that the chairman of the Municipal Council, although aware of the situation and of the developments likely to ensue, did not cause all adequate precautionary measures to be taken especially in regard to the police.

Consequently the heads of missions feel compelled to express the opinion that his conduct is not devoid of blame.

2. Colonel McEuen, commissioner of police, after being informed of the events which were impending, nevertheless considered himself justified in leaving his post, indeed more than an hour and a quarter elapsed between the moment when the demonstrators entered the International Settlement and that when the shots were fired but during all this time Colonel McEuen was not at his post. Finally, it does not appear that he made the necessary arrangements to disperse the demonstrators and obtain control of the demonstration. He thus showed negligence, lack of judgment and lack of professional ability. His is the responsibility therefore primarily involved.

The diplomatic representatives concerned consider that he should be replaced.

3. Inspector Everson being a subordinate official could not do otherwise than carry out the orders given him, the more so as he was necessarily apprehensive of the sacking of the Louza police station. He can at most be criticised for a certain lack of judgment in having refused reinforcements owing to his belief that the demonstration would not assume a dangerous character.

4. The diplomatic representatives concerned, being of the opinion that the police regulations are defective especially those dealing with disturbances and riots and that they constitute one of the causes of the incidents, consider that they must be modified and made public. It is indispensable in such circumstances that any recourse to arms by the police should be preceded by a warning (such as the sounding of a bugle) comprehensible to all and capable of being heard at a distance.

In acquainting the Municipal Council with the arrangements described above, the diplomatic representatives concerned, desirous of settling the incident in a spirit of justice and equity, recommend to it the immediate adoption of the measures mentioned under numbers 2 and 4 which will, they consider, do much to allay public opinion and bring back a normal state of affairs.

Having thus given proof of their sincere desire as far as practicable they are concerned to ascertain and fix the responsibility in the matter. The diplomatic representatives concerned feel bound to declare that they are satisfied that arrangements for the demonstrations were made on Chinese territory. The Chinese Government must, therefore, on their part, take energetic measures to fix responsibility where it belongs and inflict penalties upon the officials responsible. Moreover, in order to prevent the recurrence of similar incidents, it is indispensable that in the future the authorities of the Chinese city and those of the Concession shall maintain a close contact with the object of assuring an effective collaboration for the maintenance of order."

893.5045/96 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, July 2, 1925—2 p. m.

129. Your Nos. 237 June 19, 6 P. M. and 238 June 20, 3 P. M. In negotiations regarding settlement of Shanghai incidents the Department desires that you make every effort to see that the Chinese point of view receives fair and just consideration. Department desires to be kept informed by telegraph of developments.

KELLOGG

893.5045/109 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, July 3, 1925—7 p. m.

[Received July 3—12:35 p. m.]

262. My 257, July 2, 1 p. m.

1. Heads of Legation at a meeting this morning was [were] informed of reply from senior consul at Shanghai to instructions to consular body set forth in my telegram aforementioned requesting a delay to July 6th in presentation to Municipal Council of decisions arrived at by Heads of Legation in respect of Shanghai incident in order that consular body might have time to provide for whatever steps might be necessary in consequence of notification to Municipal Council.

2. Heads of Legation are telegraphing consular body that instructions aforementioned must be carried out; that however in view of practical difficulties Heads of Legation accede to request for delay until Monday morning, July 6th, when decisions of Heads of Legation aforementioned will be given to Chinese Government and to Peking press. Reply to consular body concluded with the statement that Heads of Legation hope consular body can persuade Municipal Council not to resign but even if it does this must not impede execution of instructions of Heads of Legation.

3. From telegrams received by my Japanese and British colleagues I understand American consul general, Shanghai, has joined with Japanese and British consuls general, Shanghai, in telegraphing direct to their respective Governments urging reconsideration of decisions of Heads of Legation. I cannot too strongly request the Department's support in this regard. I consider decisions of Heads of Legation just and proper; that they are also wise from point of view of general political expediency; that as set forth in paragraph 3 of my 255, July 2, 10 a. m., the decisions taken are necessary in order to place us on solid ground vis-à-vis Chinese public opinion in the event that negotiations for the settlement of the Shanghai

incident be long delayed or impossible of achievement. On the other hand if negotiations are initiated this spontaneous action indicating serious view taken by the Heads of Legation of the Shanghai incidents will strengthen rather than weaken our position.

4. While appreciating the stress under which Mr. Cunningham is working I cannot but greatly regret his action in derogation of my authority and responsibility if the information given me by my British and Japanese colleagues as above noted is correct.^a

MAYER

893.5045/111 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, July 6, 1925—noon.

[Received July 6—5:38 a. m.]

264. My 262, July 3, 7 p. m.

1. British Government has instructed its Chargé d'Affaires to cause suspension of communication of decisions of Heads of Legations to Chinese Government and to press, and to await further instructions. Heads of Legations acting accordingly, since no longer unanimity through suspensive veto of British Government.

2. Assumed consular body carrying out our instructions to communicate our decisions to Municipal Council which instructions of British Government to its Chargé do not seem to embrace.

3. I shall keep the Department advised telegraphically in above regard. Meanwhile respectfully request no release to press.

MAYER

793.00/54 : Telegram

The Acting Secretary of State to the Chargé in China (Mayer)

[Paraphrase]

WASHINGTON, July 6, 1925—6 p. m.

133. Legation's telegram 255, July 2, 10 a. m. As the United States is not a party to the Permanent Court of International Justice or to the League of Nations, you should be careful to refrain from joining in any move to refer to either body any question in which our Government is concerned. Await the arrival of Minister MacMurray at Peking before taking final action such as proposed in fifth paragraph of your telegram.

GREW

^aThe Acting Secretary of State telegraphed the Chargé in China July 7 as follows: "138. Your 262, July 3, 7 p. m., paragraph 3. No communication in the sense indicated has been received from Consul General Shanghai. Grew." (File No. 893.5045/109.)

893.5045/112

The British Chargé (Chilton) to the Secretary of State

No. 684

MANCHESTER, MASS., July 7, 1925.

[Received July 9.]

SIR: I have the honour to draw your attention to the proposal of the Corps Diplomatique at Peking to communicate to the press and Chinese Government the findings which they have arrived at as a result of their investigations into the circumstances attending the recent anti-foreign riots at Shanghai.

His Majesty's Government have carefully considered this proposal and in order that their attitude may as far as possible correspond with that of the United States Government, I am instructed to inform you that their views in the matter are as follows:

In the first place, His Majesty's Government are uncertain whether the decisions of the Corps Diplomatique may not meet with resistance when put into practical execution. In particular, and quite apart from possible doubts as to whether such a decision is legally enforceable, it appears to His Majesty's Government that an awkward situation would arise were the Municipal Council of Shanghai to refuse to give effect to the finding regarding the dismissal of the police Commissioner at that port. Furthermore, His Britannic Majesty's Consul General at Shanghai has protested against the findings of the Corps Diplomatique, and it is understood that his attitude enjoys the support of the Consuls General of the United States and Japan.

For the above reasons, His Majesty's Government have instructed their Representative at Peking to satisfy himself, as a preliminary to any further action, first that the decisions of the Corps Diplomatique will not meet with any effective resistance and secondly that his United States and Japanese colleagues have been officially authorized to make the proposed communication.

As regards the text of the communication itself His Majesty's Government entirely concur in the substance of the findings arrived at by the Corps Diplomatique. They consider however that the findings are susceptible of alterations in form before their actual publication takes place and should more especially contain modifications calculated to meet the legitimate personal susceptibilities of the Chairman of the Municipal Council of Shanghai and others concerned. Thus the Chinese authorities should be left in no doubt regarding their share of the responsibility for the excesses committed. The fact that the demonstrations were organized on Chinese territory should be dwelt upon at length and with emphasis and placed in the forefront of the document—immediately following this

should come a statement that the Chinese Government must take steps forthwith to fix responsibility and to punish the offenders.

Subject to these and to other emendations of a minor nature, His Majesty's Representative at Peking has been informed that His Majesty's Government are in agreement with the terms of the proposed communication—provided always that prior to its dispatch, the heads of Missions concerned are fully assured that sufficient evidence is forthcoming to support each finding and that there is no *prima facie* reason to suppose that the publication of the document will provoke a still more serious situation in Shanghai or elsewhere, particularly by undermining the authority of foreigners occupying positions of grave responsibility in the present crisis.

His Majesty's Government trust that their views, as set out above, will meet with your concurrence, and I am to express the hope that the United States Government will be disposed to address instructions to their representative at Peking similar to those which have already been sent to His Majesty's Representative.

I have [etc.]

H. G. CHILTON

893.5045/118 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, July 9, 1925—7 p. m.

[Received July 9—6:48 p. m.]

267. My telegram No. 264, July 6, noon.

1. Meeting of the Heads of Legation yesterday further to discuss the effect of British interposition in action proposed by the Heads of Legation respecting the Municipal Council. In this connection I understand the British Ambassador has communicated to you the desire of his Government. Senior minister informed colleagues that the senior consul had telegraphed that the conclusions of the Heads of Legation had been transmitted to the Municipal Council.

2. French Minister evinced considerable animus toward the British Government characterizing its action as a most regrettable interference with decisions of Heads of Legation and urged that, in view of the British action described in the telegram above mentioned and elaborated in further instructions to the British Chargé d'Affaires here, settlement of the Shanghai incident should be negotiated with the Chinese Government by the British Government alone. Several of the colleagues expressed agreement with the French Minister. Mr. MacMurray* who was present at the meeting along with me expressed

* Newly appointed American Minister to China, who had not yet assumed charge of the Legation nor presented his credentials to the Chinese Government.

opinion that the other powers concerned in the Shanghai International Settlement could not abandon their rights and responsibilities by agreeing to negotiation of solution of matter by British Government alone. British Chargé d'Affaires did not seem quite to understand extreme seriousness of the trend of discussion. He stated believed action of his Government due to insistence of the British consul general at Shanghai backed by British community there and strength of mercantile interest both in China and Great Britain.

3. At this juncture I suggested a compromise which I hoped would be satisfactory to Heads of Legation, British Government and Municipal Council, to the effect that Municipal Council be informed that Heads of Legation would be willing to agree that they would not communicate their conclusions to Chinese Government or to press but would permit Municipal Council to take as on own initiative action envisaged by their conclusions, council to announce publicly that their action [was] taken after discussion with consular body at Shanghai and with approval of the representatives of the powers concerned at Peking. MacMurray developed this suggestion observing that the chairman of Municipal Council had given him to understand when in Shanghai that Municipal Council would find less difficulty in falling in with desires of Heads of Legation if not compelled to act under obvious pressure. MacMurray further observed that from interviews with Chinese at Shanghai he had gained the impression that Chinese generally would be measurably appeased if Municipal Council would admit some responsibility for the events of May 30th.

4. At this stage of discussion Japanese Minister stated he was informed from Shanghai that Municipal Council intended to resist conclusions of Heads of Legation and French Minister insisted upon the necessity of determining fundamental issue—whether Heads of Legation have or have not power to control action of Municipal Council and in the last resort dismiss it and substitute an administration of the Settlement by the consuls. Both MacMurray and I expressed considerable doubt whether Heads of Legation were legally competent to dismiss Municipal Council. French Minister then proposed identic telegrams to our respective Governments asking for instructions, assuring us of the confidence of our Governments in respect to our attitude in Shanghai incident and our right to dissolve Municipal Council and institute other administrative organ in Shanghai. Both MacMurray and I considered such identic telegrams would be unfortunate as it was in a deplorable belligerent spirit and definitely raised hypothetical question which MacMurray felt Department of State would either be loath to answer or would answer in the negative, thereby preventing us from associating ourselves with our col-

leagues in any action which Heads of Legation might all believe indicated by resistance on the part of Municipal Council.

5. A long discussion then ensued in which MacMurray supported by Danish colleague expressed the hope that all possibilities of amicable solution between Municipal Council and Heads of Legation should be explored before taking any step which would precipitate issue on the question of control over the Settlement. An impasse appeared to be reached and rather delicate situation arrived at by insistence of French Minister that identic telegrams either should be sent or if no unanimity on the subject the various interested diplomatic representatives would be left to individual action thus breaking up the solidarity heretofore existing among Heads of Legation.

6. At this point senior minister proposed that the representatives of powers having nationals on Municipal Council, namely, Great Britain, Japan and the United States, telegraph identically to their respective consul[s] general in Shanghai in the sense of my suggestion aforementioned. This proposal was adopted and, in the afternoon after consultation among British and Japanese Ministers, MacMurray and myself, identic telegrams were sent to Shanghai as authorized by Heads of Legation. I sent further telegram to Cunningham giving him background as herein described and urging him to use his best efforts to bring about a successful and amicable arrangement between Heads of Legation and Municipal Council in the manner suggested in the identic telegram. Continuation to follow.

MAYER

893.5045/127: Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, July 10, 1925—6 p. m.

[Received 10:47 p. m.]

268. My 267, July 9, 7 p. m. Diplomatic representatives received yesterday through consular channels communication dated July 8th in which Shanghai Municipal Council declined to accede to conclusions of the diplomatic representatives. No reply has been received to the communication sent in behalf of diplomatic representatives to the American, British, and Japanese consuls on the 8th.

2. Diplomatic representatives met this morning to consider situation. British Chargé d'Affaires has received copy of instructions telegraphed by his Government to its consul general at Shanghai directing him to use every effort to obtain the agreement of the Municipal Council to the conclusions of the diplomatic representatives. Telegram from senior consul furthermore contained slight intimation that the Council might reconsider its position. In view of

the possibility of such reconsideration diplomatic representatives decided to await further word from Shanghai consular body before taking action on the Council's letter; but because of the strong probability that the Council would remain obdurate in the hope that the present crisis would enable it advantageously to force the long-standing issue as to its claim to practical autonomy on the part of the Shanghai administration, they felt it advisable to seek without delay such instructions as would enable them to meet that issue with full authorization to undertake if necessary negotiations for the modification of the existing land regulations. They therefore agreed to send their respective Governments the following identic telegram the substance of which was suggested by MacMurray instead of the telegram proposed by the French Minister at the previous meeting:

"The Shanghai Municipal Council, having received on July 6th the conclusions adopted by the diplomatic representatives as a result of the sending of the diplomatic commission, has now replied with an absolute refusal to agree to them, claiming that it is 'primarily responsible only to the electorate of the International Settlement of Shanghai', the interested diplomatic representatives apprehend that it will prove impossible to induce the Council to modify its position.

In view of the anomalous situation arising from a denial by the Settlement administration of the authority and responsibility of the diplomatic representatives with respect to matters which are of direct political concern in the relations between China and the powers by virtue of whose authority the Settlement was created and is maintained, the diplomatic representatives find themselves under the necessity of asking of their Governments authorization to reconsider, if need be in consultation with the Chinese authorities, the status of the Settlement administration as now constituted under existing regulations, with a view to the definite establishment of the Settlement upon a basis eliminating any possibility of doubt that the diplomatic representatives have an authority commensurate with their international responsibilities.

In requesting such authorization the diplomatic representatives suggest that any exchanges of views on this subject among the interested Governments should be carried on in London in order to expedite a conclusion which is urgently necessary for their guidance in a situation which is rapidly becoming more complicated.

3. [*sic*] The diplomatic representatives fully realize that negotiations regarding any fundamental change in the land regulations could at the present time be carried on only under the most serious tactical disadvantage vis-à-vis the Chinese but it is in the first place recognized that certain modifications in detail must in fact be considered incidentally to the settlement of the Shanghai crisis; and it is furthermore felt that a knowledge of the danger of inaugurating any fundamental revision of the land regulations will act as a powerful inducement to the Council to reconsider its position."

4. MacMurray and I earnestly recommend that the Department give the authorization requested, although we are hopeful that the mere possession of such authorization by the several diplomatic

representatives would in fact furnish the means of obviating the necessity for availing ourselves of that authorization for the purpose of any fundamental revision of the regulations.

5. It should be recalled that in previous communications to the Chinese Government the diplomatic representatives have agreed to seek the authority of their respective Governments for discussion with the Chinese Government, after settlement of Shanghai incidents and as germane thereto, of some form of reorganization of the Shanghai International Settlement such as inclusion of Chinese on the Municipal Council and the like should the Chinese Government so request. I consider that this constitutes a further argument in favor of our being empowered in such a manner as to be able to prevent Shanghai municipal authorities from rendering abortive our negotiations in respect of matters concerned with the carrying out of major policy in China at this critical time.

MAYER

893.5045/128 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, July 11, 1925—6 p. m.

[Received July 11—10:26 a. m.]

271. Referring to my 267, July 9, 7 p. m.; 268, July 10, 6 p. m.

1. Prior to yesterday's meeting of the Ministers the French Minister circulated to his colleagues a statement to the general effect that, in view of the divergences of opinion developed at the meeting of the 8th with particular reference to MacMurray's reluctance to join in the telegram which he had proposed, he felt unable to continue as a member of the commission of three heads of mission deputed by the diplomatic representatives to negotiate in their behalf with the Chinese authorities for the settlement of the Shanghai incident.

2. At the meeting MacMurray took occasion to remark that the difference of viewpoint developed was one merely as to procedure rather than as to substance. Count Martel while expressing thanks for this statement said that his decision to withdraw remained unchanged. After the meeting he frankly told MacMurray that he had welcomed the opportunity to withdraw from participation in the negotiations.

3. This frank avowal together with the attitude displayed by him as reported in my 267 seems to indicate a definite desire on the part of the French representative to dissociate himself from all responsibility in connection with the situation in Shanghai International Settlement. Considering that the French interest is in their own

Concession rather than in the International Settlement, his desire to hold aloof is perhaps natural and only important in that it tends to weaken statement of the powers and manifests an intention on the part of the French to exploit the present situation to their advantage at the expense of other nationalities. . . .

4. [Paraphrase.] As yet there has been no decision as to who will take the place of the French Minister on the commission. [End paraphrase.]

MAYER

893.5045/127 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, July 13, 1925—4 p. m.

146. Your 268, July 10, 6 p. m. You are authorized, if need be in consultation with the Chinese authorities, to reconsider the status of the administration of the International Settlement at Shanghai as now constituted under existing regulations with a view to the definite establishment of the Settlement upon a basis eliminating any possibility of doubt that the diplomatic representatives have an authority commensurate with their international responsibilities. London informed.

KELLOGG

893.5045/136 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

LONDON, July 17, 1925—noon.

[Received 9:13 p. m.]

217. My 216, July 14, 5 p. m.¹⁰ Chamberlain¹¹ sent for me late yesterday afternoon and on coming to Foreign Office I found there also French and Japanese Ambassadors. Chamberlain stated he wished to limit conversation to the difficulties between the diplomatic corps at Peking and the Municipal Council at Shanghai. He made a statement of the facts as they had been presented to him and then stated that his Government was unwilling to accept the resignation of the chief of police believing a proper and judicial inquiry should be made into the affair especially since the Municipal Council had offered to accept and abide by any decision reached by such an inquiry. Chamberlain said he would like both to instruct British Chargé

¹⁰ Not printed.

¹¹ J. Austen Chamberlain, British Secretary of State for Foreign Affairs.

d'Affaires, Peking, advising him of British Government's decision as above and also send an informal message to Municipal Council pointing out absurdity of their position and stating frankly that they could not regard themselves as responsible only to their own electors and at the same time rely upon foreign powers for protection. I asked if in view of public attitude of Municipal Council some retraction on their part would not be advisable before beginning inquiry. Chamberlain replied that any effort to discipline Council brought in Chinese and opened up a very wide subject for discussion and was believed therefore to be inadvisable.

Chamberlain then read following proposed telegram of instruction to British Chargé d'Affaires, Peking, and expressed the hope that the Ambassadors present might recommend to their Governments that similar instructions be telegraphed their respective missions in Peking. Japanese Ambassador agreed with Chamberlain's plan and said he would recommend it to his Government. French Ambassador stated that inasmuch as France had her own concessions and was therefore not directly interested he would leave the matter for decision by his Government.

Upon leaving I informed Chamberlain I would make a personal recommendation to my Government that any action taken should be in concert with powers represented.

Chamberlain will see Italian Ambassador today.

I request instructions.

"His Majesty's Government have carefully considered your telegram number 230 but remain of opinion that apart from the controversy with the Municipal Council a public and judicial inquiry is required to satisfy all concerned that justice is being done. The preliminary inquiries instituted by the diplomatic body and the conclusions formed by them on this report which they have received from their delegation show that there is a clear case for further investigation but the information in possession of His Majesty's Government is not sufficient to justify themselves in awarding or withholding blame still less in refusing to the Municipal Council the public inquiry for which they have asked. His Majesty's Government appreciate the difficulties arising from the fact that the diplomatic body have already rejected proposals made from Shanghai for such an inquiry and that the diplomatic body considered the report of their own commission sufficient basis for the conclusions which they wished to publish. His Majesty's Government are more than anxious to maintain the authority of the diplomatic body but consider that this will be better secured if the initiative in proposing and constituting a judicial inquiry is taken by the diplomatic body and it is explained that the diplomatic commission of inquiry is to be considered as a preliminary inquiry which has made out a *prima facie* case for a further public judicial inquiry.

I therefore propose to endeavor to obtain the consent of the Governments immediately concerned to the appointment of a judicial

commission consisting of American, French, Japanese and British judges having known the Far East but if possible not directly connected with Shanghai. I do not think that any Chinese representative should be included as the Chinese Government are not responsible for the administration of the International Settlement and have shown a persistent desire to use the Shanghai incident as an argument in a different and larger issue instead of judging it strictly on its merits.

The further communication which would be required to the Municipal Council and which would be published should be on the following lines: It should start by referring to the responsibility of the Chinese owing to the organization of the demonstration on Chinese-administered territory and should say that the inquiries made by the diplomatic body have led them to the conclusion after consultation with their Governments that a public judicial inquiry should be held to establish and make known the facts, fix the responsibilities and satisfy public opinion in China and abroad, that justice will be done and administrative reforms will be effected when required as shown by the results of the inquiry. Pending the result of this inquiry they consider that the police commissioner should be suspended but without loss of pay or prejudice to his position.

In order to maintain solidarity among your colleagues I have discussed action on the above lines with the American, French and Japanese Ambassadors in London to whom I have handed a copy of this telegram in order to secure if possible the issue of similar instructions to the representatives of those Governments at Peking. As soon as I learn the result of this discussion I will give you further instructions."

HOUGHTON

893.5045/136: Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 18, 1925—4 p. m.

159. Department's 146 July 13, 4 p. m. [Here follows substance of telegram No. 217, July 17, noon, from the Ambassador in Great Britain, printed *supra*.]

This is the first intimation that this Government has had of any proposal by the Municipal Council for a judicial inquiry into the question at Shanghai. The Department does not perceive any objection to the plan proposed by the British Government but before acquiescing desires to have your comments. The Department desires to know what effect such a proposal would have upon the Chinese and the relations between this Government and China. It would also like to be assured that such a judicial inquiry would not interfere in the early calling of the conference on tariffs and the sending of the commission on extraterritoriality.

KELLOGG

893.5045/187: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 20, 1925—midnight.

[Received July 21—6:44 a. m.]

282. Your telegram number 159, July 18, 4 p. m., concluding paragraph.

1. Shanghai Municipal Council has never actually proposed to the interested Legations to hold judicial inquiry. It has all along been dissatisfied, however, with the sending of the commission of diplomatic secretaries which investigated in behalf of the interested Legations; and in order to discredit the conclusions based thereon, certain members and adherents of the Council have instigated a vigorous agitation in the press to the effect that Council had been unfairly treated in having criticism of its action, based upon administrative rather than judicial inquiry. The suggestion most nearly approximated concrete form in an identic telegram of July 16, 5 p. m., in which American, British, and Japanese consuls advise their Legations (in connection with one of these incidental phases of the situation which I have not thought it worth while to take up with the Department by telegraph) that members of the Council had said they anticipated that Shanghai rate payers might pass resolution calling for judicial inquiry to be held on the understanding that the Council would abide by its findings.

2. It would seem that decision of heads of mission to act on the basis of report of the commission of secretaries was actuated by what at the time appeared to be the prospect that such treatment would most quickly and effectively tend to abate the antiforeign feeling aroused by the incident of May 30th. This expectation was disappointed by opposition on the part of the Council which was abetted by the British consul general and which has now received the support of the British Government in opposition to the recommendations of the British Chargé d'Affaires here. I make this comment on the failure of the method adopted by the heads of mission, not in criticism of their action (for my feeling is that had I been here I should probably have joined in their decisions), but in recognition of the fact that a new state of affairs has now been brought about which will necessitate something in the nature of a judicial inquiry in order alike to satisfy Chinese feeling and to avoid the perpetuation of such antagonism between the Shanghai community and the diplomatic representatives as would seriously handicap any negotiations for the settlement of the case.

3. Such an inquiry is likely to be opposed, however, by the Italian, French and Belgian Governments whose Ministers consider their

prestige and *amour propre* compromised by any suggestion for reconsideration of the course hitherto pursued and who are disposed to disavow any responsibility in connection with the Shanghai situation if unable to get their way in forcing a direct issue with the Municipal Council. Italian Minister in the meeting today went so far as to say that proposed judicial commission would in fact be a mere agency in behalf of the Governments whose nationals participate in the Shanghai Municipal Council and that he had already advised his Government to withdraw its small naval expedition if Shanghai should so be treated as not in fact an international settlement.

4. In the present querulous temper of the diplomatic body, I am doubtful whether any progress towards settlement can be made except by agreement among the American, British and Japanese Governments in the hope that other Governments, from a viewpoint more dispassionate than other [*that?*] of their representatives here, will be persuaded to associate themselves with the initiative thus taken by the powers actually most interested in the Shanghai International Settlement.

5. For the reasons indicated, I recommend that our Government accede to the British proposal with a qualification that the commission of inquiry should include a Chinese jurist of high standing. The holding of an inquiry without a Chinese member, or at any rate an offer to admit a Chinese to participate would, I feel sure, have an adverse effect upon Chinese opinion but I believe that to hold a judicial investigation in which Chinese had the opportunity to be represented would be a conciliatory gesture which would favorably influence Chinese sentiment and react advantageously upon our relations.

6. If such an inquiry were to be held without delay, I do not see how it would interfere with plans for Special Conference or Commission on Extraterritoriality. If the inquiry were to coincide with these, it might indeed tend to create a situation tactically disadvantageous for the negotiation of tariff and extraterritorial questions in that we would be compelled to deal with these matters of principle while occupying a defensive position in regard to concrete issues arising out of Shanghai incident. This, however, seems to me preferable to having to negotiate in the atmosphere of distrust which would persist if we were to have taken no adequate measures for the purpose of reaching an adjustment of the Shanghai affair.

7. Should it be decided to have a judicial inquiry, it may be questioned whether we ought not to be represented on it by a judicial officer not connected with Shanghai. In common with what I believe

is the general opinion, I have the highest possible regard for Judge Purdy's integrity and personal suitability and would have absolute confidence in his fairness.¹² Chinese opinion, however, is unaccustomed to the conception of judicial impartiality and would almost inevitably assume that no foreign official resident in Shanghai would be able to dissociate himself from the interests and prejudices of the foreign community there. Although I have not consulted Judge Purdy, I have reason to believe that he himself would prefer not to serve on such an inquiry. I would therefore suggest that consideration be given to the possibility of detailing a judge from the Philippines.

MACMURRAY

893.5045/137 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

WASHINGTON, July 22, 1925—2 p. m.

236. Your 217 July 17, noon. You may inform British Government that this Government is ready to acquiesce in its proposal for the holding of a public judicial inquiry to establish and make known the facts, fix the responsibilities in regard to the Shanghai incidents provided that the proposed commission include a Chinese jurist of high standing. You may state that this Government is of the opinion that the holding of an inquiry without a Chinese member, or at any rate an offer to admit a Chinese to participate would have an adverse effect upon Chinese opinion while to hold a judicial investigation in which the Chinese are given an opportunity to be represented would be a conciliation gesture which would favorably influence Chinese sentiment and react advantageously upon our relations.

[Paraphrase.] You may inform the Foreign Office confidentially that the American Minister in China believes that probably the Belgian, French, and Italian Governments will oppose such an inquiry, as their Ministers think that any suggestion to reconsider the course followed hitherto will compromise their *amour propre* and prestige. [End paraphrase.]

KELLOGG

¹² Milton Dwight Purdy, Judge of the United States Court in China.

893.5045/151 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

LONDON, July 30, 1925—11 a. m.

[Received July 30—7:59 a. m.]

236. Department's 236, July 22, 2 p. m. was communicated to Foreign Office. Mr. Chamberlain stated to me in an interview yesterday that the British Government agreed to the proposal approved by MacMurray that a Chinese judge be appointed.

Chamberlain continued that the substance of the contemplated British note to the Chinese was practically the same as that of the proposed reply quoted in Department's 239, July 23, 3 p. m.¹³ but there was considerable difference in the wording which Chamberlain thought might be made more nearly to conform; to that end, he will telegraph the British Chargé d'Affaires in Peking to confer with MacMurray and agree as nearly as possible upon an identic phraseology.

I expressed to Chamberlain the satisfaction with which this apparent correspondence of views would be received.

HOUGHTON

893.5045/112

The Secretary of State to the British Chargé (Chilton)

WASHINGTON, August 3, 1925.

SIR: I have the honor to acknowledge the receipt of your note No. 684 of July 7, 1925, in regard to the proposal of the Corps Diplomatique at Peking to communicate to the press and to the Chinese Government the findings which they had arrived at as a result of their investigation into the circumstances attending the recent anti-foreign riots at Shanghai. Since your note was received the situation has been altered by the proposal of the British Government, which was communicated to me through the American Embassy at London, for the appointment of a commission, consisting of British, French, Japanese and American judges, to hold a judicial inquiry in regard to the riots, to establish and make known the facts, fix the responsibilities and satisfy public opinion in China and abroad. On July 22, 1925, I instructed the American Ambassador at London to inform His Majesty's Government that this Government was prepared to acquiesce in its proposal for the holding of a judicial inquiry

¹³ Not printed; see note of July 23 to the British Chargé, p. 793, and footnote 99, p. 796.

for the purposes above referred to provided the proposed commission should include a Chinese jurist of high standing. I also authorized the Ambassador to express the view that the holding of an inquiry without a Chinese member, or at least without an offer to admit a Chinese to participate, might have an adverse effect upon Chinese opinion, while to hold a judicial investigation in which the Chinese would be given an opportunity to be represented would be a conciliatory gesture which would favorably influence Chinese sentiment and react advantageously upon our relations.

Accept [etc.]

FRANK B. KELLOGG

893.5045/156 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

LONDON, August 4, 1925—4 p. m.

[Received August 4—12:11 p. m.]

245. Embassy's 236, July 30, 11 a. m. Foreign Office note just received states French, Japanese, and Italian Governments have agreed in principle to the establishment of judicial inquiry and concludes:

"I should be grateful if United States representatives at Brussels, Copenhagen, The Hague, Lisbon, Madrid, Stockholm and Oslo be instructed to support their British colleagues in expressing the hope to the Foreign Offices of these powers concerned that their respective representatives at Peking be instructed to agree to the establishment of the inquiries."

Similar Foreign Office note has been addressed to French, Japanese, and Italian Ambassadors here.

Please reply.

HOUGHTON

893.5045/156 : Telegram

The Secretary of State to the Ambassador in Great Britain (Houghton)

WASHINGTON, August 5, 1925—1 p. m.

248. Your 245, August 4, 4 p. m. Instructions are being sent to American Diplomatic representatives at Brussels, Copenhagen, The Hague, Lisbon, Madrid, Stockholm and Oslo to consult with their British colleagues and if necessary to support them as requested by informing the Foreign Offices of those countries that this country has consented to the British proposal for the judicial inquiry, it being understood that the judicial commission will include a Chinese jurist.

KELLOGG

893.5045/170 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, August 6, 1925—6 p. m.

192. The Chinese Minister called upon me on the 5th instant to state that he had received instructions from his Government to say to me that his Government could not see any need for the proposed judicial inquiry into the Shanghai matter in view of the fact that the guilt of the Chinese students had been passed upon by the Mixed Court and the responsibility of the police evidenced by the testimony of Everson at the same trial, and that the question of the responsibility of the Municipality had been gone into by the Commission sent to Shanghai by the Diplomatic Body and by the Chinese Government. I explained to the Chinese Minister that this Government did not desire to delay the settlement of the Shanghai matter in any way, that it had given full authority to its Legation in Peking to deal with this matter, that the proposal for a judicial inquiry had come from the British Government and that we had consented to it on the understanding that a Chinese jurist should be appointed to the judicial commission or that the Chinese Government be given an opportunity to appoint one. I stated that I could not see any reason why such a judicial inquiry should not be held if the Government desire it as it would be a public inquiry into the facts and would not interest itself in any negotiations between the Powers and the Chinese Government relating thereto.

KELLOGG

893.5045/170 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 8, 1925—9 a. m.

[Received 6:13 p. m.]

319. Your number 192, August 6, 6 p. m.

1. Minister for Foreign Affairs August 6th recounted to me an informal conversation with British Chargé d'Affaires in which the former had expressed objection to the proposed judicial inquiry into the Shanghai affair on the ground that it would merely delay a settlement of the case.

2. He asked my views and I told him that while I had received no final instructions from my Government on this point I was personally of the opinion that such an inquiry would be of value and might in fact obviate delays in the negotiations prescribed otherwise likely to occur through failure to agree on the actual facts involved. He very persistently argued that the reports made by the

Chinese commission and by the commission of the diplomatic body would furnish an adequate basis for negotiations, even though they represented *ex parte* investigations by the two parties in interest. He clearly implied that the Chinese would find it easier to deal with the matter through mutual concessions rather than on the basis of an impartial and precise ascertainment of facts.

3. From this and previous indications of Chinese feeling, I judge that the acceptability of this proposal to the Chinese has been prejudiced by publicity from London regarding the British Government's intention to bring about a judicial inquiry, these reports having first reached the Chinese in a form that made no reference to Chinese participation.

4. At a meeting of interested ministers August 7th senior minister informed us that the Minister for Foreign Affairs had told him the Chinese Government had noted press reports concerning the proposed inquiry and stated that he hoped no such proposal would be made as the Chinese Government would categorically refuse to entertain it and would not only be unwilling to participate but would take no cognizance of any of the findings of the inquiry. Senior minister said he inferred, though it was not stated, that it was the intention of the Chinese Government to decline all co-operation in such matters as the summoning of witnesses under Chinese jurisdiction.

5. This attitude on the part of the Chinese disappoints the hope that they would regard as a conciliatory gesture an offer to have them participate in the inquiry: and I am afraid that if the powers were not committed to such a course of action in consequence of publicity given the assurances, I should now be disposed to recommend that we abandon a course which under present circumstances seems likely to aggravate rather than diminish the feeling among the Chinese. It is doubtless too late now to do that; and our problem is to relieve the tense situation as best we can despite the further difficulty that has arisen.

6. Japanese Minister has now stated that his Government assented on two conditions to the British proposal for the inquiry: First, that it should not stand in the way of early acceptance of the offered resignation of McEuen, the Shanghai police chief whom the Chinese generally regard as responsible for the shooting; and, second, that negotiations for the settlement of Shanghai matters be undertaken as promptly as possible. It is the view of the Japanese Government that pending the result of judicial inquiry into the facts of shooting we might at once take up with the Chinese negotiations concerning indirectly related questions of rendition of Mixed Court and of Chinese representations on Municipal Council.

7. The British Government has telegraphed to its Legation here a draft of a document by which it is proposed the diplomatic body should constitute the commission of inquiry. This draft contemplates not merely that the commission shall be a fact-finding body, but provides further that they shall "make such recommendations as they may think proper as to action which is called for in the circumstances as established by them and as to any steps which should in their opinion be taken by authorities ultimately responsible for administration at International Settlement at Shanghai with a view to preventing similar occurrences in future." This seems to me to go far beyond the purposes of a judicial inquiry and to confuse the functions of the inquiry with political considerations. Assuming that the Chinese will not participate, the so-called judicial conference would in fact be scarcely more than new foreign agency to reconsider the conclusions already reached by the diplomatic body and now held in abeyance.

8. While the subject of a judicial inquiry is thus beclouded, no progress is being made towards a settlement of Shanghai affairs, the agitations continue, and the more responsible elements among Chinese find themselves increasingly embarrassed in dealing with agitators by reason of what appears to them the evasiveness and lack of candor of the foreign powers in dealing with the present crisis. The situation is drifting dangerously, and it seems to me important that we should try to bring about some solution of the present muddle. It appears that the British hold the key to the situation, and since their Chargé d'Affaires seems to have exhausted his influence with his own Foreign Office in the course of his contest with the ultraconservative British consulate at Shanghai, I venture to recommend that you urge upon the government at London the necessity for action which will in some degree meet a situation in China which is critical for all foreign interests and particularly harmful to the British.

9. Concretely, I think we should urge upon the British Government the following plan: (a) Resignation of McEuen to be accepted immediately; (b) negotiations to be begun without delay by informing the Foreign Office of our assent in principle to the rendition of Mixed Court and to Chinese representation on Municipal Council; (c) judicial inquiry, if British Government still insists upon it, to be limited to finding of facts. Points (a) and (b) substantially correspond with Japanese conditions referred to in paragraph 6.

10. The British Government seems to have adopted the views of Shanghai interests that McEuen should be retained as chief of police unless and until he may be judicially determined to have

been culpable in the shooting affair. This view ignores the fact that in the light of the present crisis in China essential question is not as to his culpability but as to the expediency of retaining him in his post despite the fact that traditional Chinese concepts of official responsibilities point him out as one whose retention or departure from office constitutes a test whether or not the foreigners are sincere in their professions of regret and of desire to settle the Shanghai affair. The Council might well let McEuen go with a pension because so long as he is retained it will be difficult or impossible to negotiate in mutual confidence or good will with the Chinese. His ostensibly voluntary resignation was already in the hands of the Municipal Council when the British Government proposed that action be suspended pending judicial inquiry. If that Government realized what from this viewpoint is apparent as the obvious necessity of his withdrawal from the situation, there should be no difficulty in its bringing about that result.

11. As for commencing negotiations on the subjects indirectly related to the incident of May 30, while withholding discussion of that incident pending the result of the judicial inquiry, I feel that this somewhat illogical order of procedure would be justified by the necessity of putting an end to the delays in commencing negotiations.

12. The judicial inquiry should be very strictly confined to the determination of the facts in connection with the shooting, and in view of the antagonism aroused among the Chinese it would be prudent to minimize the emphasis placed upon it.

13. If this proposal meets with your approval I suggest that you authorize me to discuss the matter with the Japanese Minister with a view to his asking his Government to make representations in a similar sense to the British Foreign Office.

MACMURRAY

893.5045/171 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 10, 1925—4 p. m.

[Received August 10—1 p. m.]

322. Following from Shanghai:

"August 7, 3 p. m. Referring to the Legation's telegram July 28, 3 p. m. It has been decided by the naval authorities that the landing forces, except to guard public utilities, will be withdrawn on the 10th instant. After the withdrawal there will remain ashore to guard public utilities 120 Italians, 220 British, 125 American marines and 280 Japanese. There will be 980 reserves.

It is believed that conditions will justify this reduction though there are more than 100,000 strikers who are potential criminals. There will be no withdrawal of naval vessels in this vicinity.

There is an unconfirmed but persistent rumor that the seamen's strike will be extended on the 10th to vessels of all nationalities including Chinese. It is not given serious credence and is mentioned only because of the serious consequence if true."

MACMURRAY

893.5045.170 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, August 10, 1925—4 p. m.

197. Your 319, August 8, 9 a. m. Approve your proposal and you are authorized to discuss the matter as you suggest with the Japanese Minister. American Embassy at London is being instructed to take matter up with British Foreign Office along lines of your telegram.

KELLOGG

893.5045/183 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

LONDON, August 15, 1925—3 p. m.

[Received 5:25 p. m.¹⁴]

257. Your 254, August 10, 5 [4] p. m.¹⁵ was made the subject of an informal note to the Foreign Office to which the following reply has been received:

"As regards Colonel McEuen, as has already been pointed out by us to the Japanese Government, we still feel that acceptance of his resignation before the inquiry would be a mistake since if he is censured by the inquiry the Chinese, who are likely to criticise us whatever we do, may complain that justice has been defeated by allowing him to resign beforehand and thus escape dismissal. This objection is increased if consular or diplomatic representatives are concerned instead of its being a matter entirely between the Municipal Council and their servant. Suspension without prejudice therefore seems to us to be the proper course in fairness to all parties concerned and we think it must surely be precisely the course which the United States Government would themselves adopt if any similar inquiry were held in America. It seems, moreover, to be in accordance with the idea underlying the remarks of your Minister mentioned in (c) of your letter and to meet the view with which we agree that Colonel McEuen should not remain in active occupation of his office while the inquiry is being held.

¹⁴ Telegram in two sections.

¹⁵ Not printed; see telegrams No. 197, Aug. 10, to the Minister in China, *supra*, and No. 319, Aug. 8, from the Minister in China, p. 692.

You will also appreciate that His Majesty's Government cannot insist on a matter which lies between the Municipal Council and their own servant. We now learn that Colonel McEuen's offer to resign has lapsed and that he is not now prepared to resign. We cannot insist that his offer be renewed, as though he were an official in our own employ; and if the diplomatic body as a whole were to try to do so this would probably mean a conflict with the Municipal Council. Is the game worth the candle? And can the diplomatic body afford to risk a fresh breach with Shanghai at the present moment and on an issue in which they would be acting contrary to established ideas of justice? But we have already declared our readiness to recommend that McEuen be suspended by the Municipal Council. This will entail his disappearance from office pending the inquiry upon the result of which his ultimate fate will depend. This is fair and reasonable and we do not think the Municipal Council can refuse.

Of course we have no intention or wish whatever to screen McEuen but we do feel very strongly that the judicial inquiry which seems essential in order to reach a settlement of the Shanghai riots ought not to be made dependent on the minor question of McEuen's fate which cannot affect the findings of the inquiry in any way. We are prepared to go very far to meet the views of other powers in order to expedite and facilitate this inquiry to which we attach great importance whereas the McEuen question seems to us here to be secondary matter. But if the United States and Japanese Governments insist on making McEuen's resignation a condition to the judicial inquiry, they will be insisting on something which we (and they) cannot enforce; and they may well therefore be wrecking the judicial inquiry.

As regards (b) in our Ministr[y's] reply to the Chinese note we stated that we agreed to negotiations commencing forthwith on those articles in the 13 demands which were extraneous to the immediate question of the Shanghai riots. In this connection we agree with you in principle as to the rendition of the Mixed Court and to Chinese representation on the Municipal Council; and we have instructed Peking that negotiations may begin forthwith.

As regards (c), the scope of the judicial inquiry, we submitted draft terms of reference to our representatives at Peking to serve as a basis for discussion and not as an unalterable document. These were as follows "to inquire into the origin and character of the disturbances which took place at Shanghai on or about the 30th day of May 1925; the reasons if any that existed for anticipating disorder; the precautions adopted or which might have been adopted to prevent the same; the measures taken to suppress it and the circumstances in which certain persons lost their lives and other persons suffered injuries; to report thereon (to diplomatic body) and to make such recommendations as they may think proper as to the action which is called for in the circumstances established by them and as to any steps which in their opinion should be taken by the authorities primarily or ultimately responsible for the administration of the International Settlement at Shanghai with a view to prevent a similar occurrence in future."

These terms were duly intended to enlarge the scope of our original proposals which were shown in the last paragraph of our *aide-*

mémoire of July 17th¹⁸ (See my despatch 230 [203,] July 20¹⁶) to agree that a public judicial inquiry should be held to establish the facts to fix responsibility and to satisfy public opinion in China and abroad that justice will be done and administrative reforms effected in any way that such an inquiry may show to be necessary.

It is the usual practice in order to get the full benefit from inquiries of this character to ask the court of inquiry to make recommendations. It remains for the Government[s] to act on those recommendations or not as they think fit. In the present instance we thought such a condition the more desirable as the police regulations are believed to be defective. We however only telegraphed terms of reference to our Legation at Peking to serve as a basis of discussions and in order to expedite action. Although for the reasons explained our first impression was that the court of inquiry ought to be asked to make recommendations on matters directly arising out of its ascertainment of the facts, the point of main importance is that the inquiry should not be further postponed and if your Minister and Government remain opposed to this feature of the terms of reference we are ready to fall in with their views. In any case I presume that your Government are ready to agree to rest of the terms of reference. Your Government suggests that the inquiry should be limited to "findings of fact as regards the resignation of McEuen" and on the other hand "to the determination of the facts in connection with the shooting." I presume the latter is intended, but we do not see how the actual shooting (or shootings) can be separated from the other interconnected occurrences which in their entirety formed the sequence of events now generally known as the Shanghai riots.

HOUGHTON

893.5045/187 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

WASHINGTON, August 21, 1925—5 p. m.

272. Your 257, August 15, 3 p. m. was communicated in substance to American Legation at Peking. The American Minister replies that in his mind and in those of several of his colleagues whose opinion he respects, there is no doubt that McEuen's resignation is necessary and that the proposal that he be "suspended without prejudice" pending the inquiry would be regarded by the Chinese as a mere device to let him have a holiday until the judicial inquiry has returned the finding that it is not competent to review his exercise of the administrative discretion confided to him.

He points out that McEuen is an administrative officer whose continuance in the office is the occasion for ill-will and distrust not only

¹⁸ Not printed.

locally but throughout China. You are authorized to communicate the above to the British Foreign Office and to state that we hope that the British Government may find itself able to reconsider its position in this connection in view of the desirability that early action of a conciliatory nature should be taken in connection with the Shanghai matter. It is the considered view of this Government that as much should be done as is possible to make some advance toward a settlement of the Shanghai matter in order to get that out of the way before the Special Conference on Tariffs meets in October.

KELLOGG

893.5045/191 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 27, 1925—9 a. m.

[Received August 27—6 : 16 a. m.]

354. My telegram number 336, August 20, 4 p. m.¹⁷

1. British Chargé d'Affaires has several times asked me whether our Government has named a judge to serve on the Shanghai inquiry. I have replied that I have no information as to your intentions beyond your original acceptance in principle of the proposal for a judicial inquiry.

2. It now appears that at the instance of the British consul general at Shanghai the British Government desires that even McEuen's suspension should not be put into effect or announced till immediately before the commission of inquiry convenes. This would merely delay such slight concession to Chinese feeling as might be involved in his suspension.

MACMURRAY

893.5045/197 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

LONDON, August 27, 1925—1 p. m.

[Received August 27—11 : 23 a. m.]

274. Department's 272, of August 21st, 5 p. m. was discussed at the Foreign Office.

In conversation with me yesterday, Chamberlain referred to the matter and pointed out the proven policy of the British Government to act in concert with America and Japan. He said that British opinion was strongly against condemnation of British official without

¹⁷ Not printed.

fair hearing and added that this feeling would be strengthened by fact that chairman, an American who was apparently equally guilty, was left undisturbed. Chamberlain then made a personal appeal to me to do all in my power to urge upon my Government the advisability of early action with Britain and Japan in conducting an impartial investigation.

I am convinced that Chamberlain desires to act in unity with us. He fears, however, embarrassment in Parliament as well as possible complication with public opinion of British colonies in Far East if he permits McEuen's resignation or dismissal before a public inquiry has been made. I suggest that Department give appropriate weight to so personal a request.

HOUGHTON

893.00/6567 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 29, 1925—6 p. m.

[Received August 29—9:27 a. m.]

362. Following from Shanghai:

"August 29, 10 a. m. State of emergency canceled yesterday. All American landing forces reembarking this morning. Probably, but not definitely known, small British force will remain at power station."

MACMURRAY

893.5045/198 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 30, 1925—5 p. m.

[Received August 30—9:10 a. m.]

364. Your telegram number 221, August 27, 7 p. m.¹⁸

1. British Chargé d'Affaires now out of town, sent to me yesterday one of his secretaries with a letter making "very urgent appeal" to me to urge you not to insist on McEuen's resignation and stating "my Government feel very strongly that this procedure would be unfair and would lead to trouble: indeed they are frankly unable to accept it."

2. If, as is indicated both by this letter and by Chamberlain's conversation with our Ambassador, the British Government may be expected to persist to the end in this shortsighted view, it seems

¹⁸ Not printed; it repeated telegram No. 274, Aug. 27, from the Ambassador in Great Britain, p. 699, and added, "Department desires your comments and suggestions as to way out of present impasse."

necessary to accept that fact and the consequences that McEuen cannot be got to resubmit his resignation before the inquiry and that insistence upon it would indefinitely postpone all action towards the settlement of the Shanghai incident.

3. Under these circumstances it seems to me wiser to yield to the extent of contenting ourselves for the time being with his suspension which should however be arranged to take effect as soon as possible without awaiting the commencement of inquiry.

4. I remain however convinced that Shanghai affair can never be really settled and the intense and widespread bitterness of the Chinese be allayed so long as McEuen is retained in his post. If the inquiry should find him at fault the matter will presumably be disposed of by his dismissal. But if as is quite possible it should find that his conduct was not culpable but involved question of the exercise of his administrative discretion which a judicial inquiry is not competent to review, the Chinese would undoubtedly resent what they would regard as a whitewash and there would be a fresh outburst of agitation against the British and other nationalities which they considered parties to repudiation of responsibility for shooting.

5. Unless therefore it can be arranged that McEuen if acquitted will nevertheless retire from post in which his presence is a challenge and an incitement to antforeign feeling, we owe it to ourselves to dissociate ourselves so far as possible from the policy of obstinately ignoring Chinese sensibilities which has already proved the chief [omission] in the present crisis in China. And unless the British Government is prepared to do its part to prevent Shanghai negotiations proving abortive by exerting its influence upon McEuen and the British members of Municipal Council to obtain in advance the offer of his voluntary retirement in the event of his being vindicated by the inquiry, I feel that we should hold aloof from those negotiations and that I should be instructed not to accept membership on the committee which it is planned should negotiate with the Chinese Government in behalf of interested Legations for the settlement of matters immediately connected with shooting.

6. Concretely I recommend that we should inform British Foreign Office that for sake of avoiding indefinite delay in settlement of the Shanghai affair we will not insist upon McEuen's resignation before the inquiry; but that we feel so strongly that his retention in his post would perpetuate the Chinese rancour against the position of foreigners throughout China and render abortive any negotiations for the settlement of the Shanghai incident, that we would prefer to hold aloof from any such negotiations unless assured that he will ask to be retired in the event of his vindication by the inquiry.

MACMURRAY

893.5045/197 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

WASHINGTON, August 31, 1925—8 p. m.

282. Your 274 August 27, 1 p. m. Department has given careful consideration to views set forth in your telegram. It is willing to accept the British stand with regard to status of McEuen on the understanding that McEuen's suspension should be arranged to take effect as soon as possible without awaiting the commencement of the judicial inquiry. British Foreign Office does not appear fully to appreciate the importance which attaches to McEuen's status in the mind of the Chinese in the present situation. The Department is convinced that the Shanghai affair can never be really settled and the intense and widespread bitterness of the Chinese be allayed so long as McEuen is retained in his post. Rightly or wrongly McEuen represents in the minds of the Chinese that aspect of extraterritorial privileges which resulted on May 30 in the death of certain Chinese students. If the inquiry should find him at fault the matter will presumably be disposed of by his dismissal. But if, as is quite possible, the inquiry should find that his conduct was not culpable but involved question of the exercise of his administrative discretion which a judicial inquiry is not competent to review, the Chinese would undoubtedly resent what they would regard as a whitewash and there would be a fresh outburst of agitation against the British and other nationalities which they considered parties to repudiation of responsibility for shooting. To prevent any such unfortunate result it seems to the Department that it should be arranged that McEuen, if acquitted, will nevertheless retire from post in which his presence is a challenge and an incitement to anti-foreign feeling.

You may therefore inform the British Foreign Office that for sake of avoiding indefinite delay in settlement of the Shanghai affair we will not insist upon McEuen's resignation before the inquiry; but that we feel so strongly that his retention in his post would perpetuate the Chinese rancor against the position of foreigners throughout China and render abortive any negotiations for the settlement of the Shanghai incident, that we feel that assurances should be given that he will ask to be retired in the event of his vindication by the inquiry.

KELLOGG

893.5045/200 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

LONDON, September 1, 1925—4 p. m.

[Received September 1—12:34 p. m.]

278. Department's 282, August 31, 8 p. m. was read to Foreign Office whereupon Embassy was informally advised that British Chargé d'Affaires at Peking would be instructed to cooperate with his American colleague: First, in arranging McEuen's immediate suspension; second, in endeavoring to obtain as satisfactory assurances as possible that McEuen will be retired in the event of his vindication; and third, in expediting the holding of the judicial inquiry.

HOUGHTON

893.5045/204 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 4, 1925—9 p. m. [a. m.]

[Received September 4—10:55 a. m.]

379. Your telegram number 203, August 17, 5 p. m.¹⁹

1. In consultation yesterday evening Japanese Minister, British Chargé d'Affaires and myself worked out formula based upon the British Foreign Office draft for the terms of reference to judicial inquiry of the matters related to Shanghai incident of May 30. This we propose to present for the approval of interested colleagues so soon as Japanese Minister and I may have received authorization.

2. Substantial portion of the formula omitting preamble and lettering subsequent paragraphs for convenience of reference, is as follows:

"(c) Now therefore, we, the diplomatic representatives at Peking of (all interested Governments here named²⁰), do hereby authorize the American, British and Japanese representatives each to designate a jurist to be a member of a commission of inquiry (which shall also include a Chinese jurist if such should be designated for that purpose by the Chinese Government) to investigate the origin and character of the disturbances which took place at Shanghai on or about May 30th, 1925; the reasons if any that existed for anticipating disorder; the precautions that were or might have been adopted to prevent the same; the measures taken to suppress it and the circumstances in which certain persons lost their lives and other persons suffered injuries; and to report their findings.

¹⁹ Not printed; it repeated substance of telegram No. 257, Aug. 15, from the Ambassador in Great Britain, p. 696.

²⁰ The American, Belgian, British, Danish, French, Italian, Japanese, Netherlands, Norwegian, Portuguese, Spanish, and Swedish Governments.

(d) The commission shall have power to determine the procedure to be adopted for the purposes of the inquiry.

(e) The sittings of the commission other than those held for the purposes of determining its procedure and of preparing its report shall be held in public.

(f) The commission is authorized so far as the different legal systems applicable may permit to require the attendance of witnesses and the production of documents and to take evidence on oath.

(g) The commission may at its discretion permit any person or public body concerned with the subject matter of the inquiry to appear before it either in person or by legal representative and to call and cross-examine witnesses.

(h) The findings of the commission should if possible be unanimous.

(i) In pursuance of the authorization set forth above we the representatives of the American, British and Japanese Governments do hereby respectively designate, Sir Henry Gollan²¹ and to be members of the said commission."

3. Please advise me whether this formula is satisfactory, if so definitely empowering me to sign it or any modification of it importing no substantial alteration.

4. I should be glad if you could as soon as possible advise me of the name of the jurist whom I may be authorized to designate for the purpose in behalf of our Government and of the approximate date when he may be available to take part in inquiry. In view of the long delay that has taken place in constituting the commission, even though the fault is not primarily ours, I would urge the utmost expedition in making the necessary arrangements.

MACMURRAY

893.5045/203 : Telegram

*The Acting Secretary of State to the Ambassador in Great Britain
(Houghton)*

WASHINGTON, September 4, 1925—4 p. m.

283. Your 278, September 1, 4 p. m., was repeated to MacMurray at Peking who now replies that the British Chargé d'Affaires has asked him whether, in order to avoid possible difficulties, we would be satisfied with a definite pledge from the British Government that at the close of the judicial inquiry it would, if necessary, exert its utmost influence to bring about retirement of McEuen. MacMurray recommends that matter be taken up with British Government. You may inform Foreign Office that a definite pledge from it to that effect will be acceptable to us as sufficient assurance of McEuen's elimination.

GREW

²¹ Chief Justice of the Supreme Court of Hongkong.

893.5045/204 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, September 4, 1925—5 p. m.

232. Your 379 September 4, 9 p. m. [a. m.] Formula satisfactory to Department. You are authorized to sign it or any modification thereof importing no substantial alteration.

Department is considering question of judge.

GREW

893.5045/205 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 9, 1925—5 p. m.

[Received September 9—11:46 a. m.]

385. My telegram number 379, September 4, 9 a. m. Interested colleagues accept proposed terms of reference with following modifications: (1) in paragraph (c) "do hereby authorize" changed to "do hereby request"; (2) in paragraph (i) "authorization" changed to "request"; (3) all interested representatives to sign at the end of paragraph (h), and American, British and Japanese representatives to sign again at the end of paragraph [(i)]

Action awaits selection of American and Japanese judges.

MACMURRAY

893.5045/191 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, September 9, 1925—6 p. m.

238. Your 354, August 27, 9 a. m. Associate Justice E. Finley Johnson of the Supreme Court of the Philippine Islands will be named as the American judge to serve on Commission of Inquiry at Shanghai as soon as Department receives word from you as to when the Commission will sit.

KELLOGG

893.5045/218 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 10, 1925—5 p. m.

[Received September 10—10:23 a. m.]

389. My telegram number 383, September 4, 7 p. m.²²

1. I have received from the British Chargé d'Affaires letter stating he has been authorized by the British Foreign Office to inform me that—

“At the close of the judicial inquiry my Government will if necessary exert their influence on the Shanghai Municipal Council with a view to obtaining Mr. McEuen's resignation, believing as they do that his continued employment would in any case be prejudicial to harmonious relations between foreigners and Chinese.

I hope you will be able to tell me that this promise is satisfactory to your Government and that they will accept it as a sufficient assurance of Mr. McEuen's elimination.”

2. May I inform him that this assurance is satisfactory and that I am for my part ready to proceed with the negotiations with the Chinese Government regarding Shanghai incident?

MACMURRAY

893.5045/218 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, September 11, 1925—5 p. m.

241. Your 389, September 10, 5 p. m. You may inform British Chargé that assurance is satisfactory, and that you are ready to proceed with negotiations with Chinese Government regarding Shanghai incident.

KELLOGG

²² Not printed.

701/0093 D 34
259

*The Netherlands Minister in China (Oudendijk), Senior Minister,
to the American Minister (MacMurray)*²³

Circular No. 259

PEKING, September 15, 1925.

Subject: —Commission of enquiry concerning incidents of May 30th, in Shanghai

The Senior Minister has the honour to inform his Honourable Colleagues that he received from the Senior Consul in Shanghai the following telegram:²⁴

"In reply to Your Excellency's telegram of the 11th instant, the Municipal Council confirms its agreement to conform to the conclusions of the judicial commission and to suspend the Commissioner of Police before the first meeting of the commission."

Consequently the Senior Minister has today forwarded the letter to the Wai Chiao Pu by which he hands the Minister for Foreign Affairs a certified copy of the terms of reference for the Commission of Enquiry.²⁵

A copy of this letter is attached to this Circular.

Certified copies (one for each Legation) and the usual number spare copies of the terms of reference together with copies of the Senior Minister's letter will be sent today to the various Legations directly.

[Enclosure]

*The Netherlands Minister in China (Oudendijk), Senior Minister,
to the Chinese Minister for Foreign Affairs (Shen)*

Decanat No. 49

PEKING, September 15, 1925.

MONSIEUR LE MINISTRE: As Your Excellency is aware the Foreign Governments interested have come to the decision that the circumstances of the unfortunate incidents in Shanghai of May 30th. should be definitely cleared up by a public judicial enquiry.

They have therefore authorized their Representatives in Peking to request their American, British, and Japanese Colleagues each to designate a Jurist to be a member of a Commission of Enquiry.

I am now desired by my Colleagues to inform Your Excellency that the Heads of Mission concerned have taken this step, and seize this opportunity to hand Your Excellency herewith a certified copy of the terms of reference for the above mentioned Commission at the

²³ Copy received by the Department on December 4.

²⁴ Telegram in French; translation supplied by the editor.

²⁵ Not printed; see telegrams No. 379, Sept. 4, and No. 385, Sept. 9, from the Minister in China, pp. 703 and 705, respectively.

foot of which the designations of its members are inscribed. The Commission will meet as soon as its members can reach Shanghai.

As it is in the interest of all concerned that the findings of this Commission be as full and complete as possible, our respective Governments think it highly desirable that a Chinese Jurist should also be one of its members, and for that purpose I have the honour in the name of the Heads of Mission concerned to express the hope that Your Excellency's Government may see fit to appoint a Chinese Jurist to sit on the Commission.

In conclusion I have to add that the Municipal Council of the International Settlement of Shanghai have bound themselves to abide by the findings of the Commission and that the Chief of Police of the said Settlement Mr. McEuen will be suspended, without prejudice, until the completion of the enquiry.

Whilst expressing the hope that Your Excellency's Government see their way to appoint a member of the Commission of Enquiry and in any case in the interest of justice and to facilitate the work of this Commission as far as possible to expedite the fulfilment of its task, I avail myself [etc.]

W. J. OUDENDIJK

701.0093 D 34
273

*The Netherlands Minister in China (Oudendijk), Senior Minister, to the American Minister (MacMurray)*²⁶

Circular No. 273

PEKING, October 3, 1925.

Subject:—Shanghai incident of May 30th (judicial inquiry).

Referring to Circular No. 259²⁷ the Senior Minister has the honour to circulate herewith among his Honourable Colleagues the official English translation of a Note received by him on October 2nd., from the Minister for Foreign Affairs on the subject of the Judicial Enquiry.

[Enclosure—Translation]

The Chinese Minister for Foreign Affairs (Shen) to the Netherlands Minister (Oudendijk), Senior Minister

[PEKING,] October 2, 1925.

MONSIEUR LE MINISTRE: I have the honour to acknowledge the receipt of Your Excellency's Note of September 15th. last informing me that the Foreign Governments interested have authorised their Representatives at Peking to request their American, British and Japanese Colleagues each to designate a Jurist to be a member of a

²⁶ Copy received by the Department December 4.

²⁷ *Supra*.

Commission of Enquiry into the circumstances of the incidents in Shanghai of May 30th., and, in sending me a certified copy of the terms of reference for the Commission, Your Excellency also expressed the desire that a Chinese Jurist should also be one of its members.

I beg to seize this opportunity to state that the British Chargé d'Affaires at Peking, had in a Note of September 1st., last, transmitted to this Ministry telegraphic instructions from his Government respecting their proposal for a Judicial Enquiry. In view of the lapse of time and changed circumstances whereby most of the requisite evidence had become unobtainable or had disappeared and moreover as the facts of the case had been carefully investigated into at the beginning by Delegates on both sides, my Government had informed Monsieur Palairet in reply that the application at the present junction [*sic*] of such a procedure would only serve the purpose of further complicating the issue.

Your Excellency is no doubt aware that after the occurrence of the Shanghai incidents my Government lodged a formal protest through the Italian and then Senior Minister with the result that the Diplomatic Representatives of the interested Powers decided to send Delegates to Shanghai to investigate into the incidents and empower them to discuss and settle the case with the Chinese Delegates on the spot. Though the negotiations were brought to a suspense [*sic*] through the lack of authority on the part of the Diplomatic Delegates to settle the case as stated by them but no question, however, arose in respect to the facts which had been investigated into. When the case was transferred to Peking for settlement the then Senior Minister brought out five points as being suitable for discussion while consultations also took place on the various articles embodied in this Ministry's despatch of June 24th. last as they are within the scope of the case and admissible for discussion.

Afterwards it was given out that the British Government proposed to re-investigate the case by judicial procedure, a proposal [of] which the British Chargé d'Affaires at Peking also subsequently made mention. Consequently my Government instructed by telegraph their Chargé d'Affaires at London to inform the British Government that as the facts of the Shanghai case had already been investigated into conjointly by the Diplomatic Delegates who also had several discussions with the Chinese Delegates, the re-investigation suggested was unnecessary and would only involve a waste of time: a view I also made known on several occasions to the Representatives at Peking of the interested Powers.

To be informed three months after the occurrence of the incidents that the Foreign Governments interested still come to the decision of

appointing delegates to investigate into the case by judicial procedure, I beg leave to say that my Government have not wavered from their attitude originally maintained.

I avail myself of Your Excellency's valued channels to transmit the contents of this Note to Your Colleagues, the Heads of Mission concerned, and to express to you, Monsieur le Ministre, the renewed assurances of my very high consideration.

[File copy not signed]

893.5045/289 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, October 9, 1925—4 p. m.

[Received October 9—9:15 a. m.]

431. My telegram number 411, September 23, 9 p. m. [*a. m.*]²⁸

1. The commission of inquiry²⁹ issued October 3rd, a notice inviting all persons to appear and give evidence regarding May 30th incident and announced first meeting for October 7th.

2. Justice Johnson now telegraphs confidentially October 7, 4 p. m.:

"Commission announced an adjournment at this morning's sessions until October 12th to enable all parties to prepare their evidence. It appears to be settled that the Chinese witnesses will not appear before the commission. The inquiry therefore will probably be *ex parte* with very doubtful beneficial results. Shall the inquiry proceed?"

3. I have replied that the inquiry should proceed, adding that the refusal of the Chinese to cooperate was anticipated before the commission was constituted; and, while the failure to obtain Chinese witnesses may of course impair the abstract value of the findings, I believe that available testimony (including records of Chinese testimony taken by Mixed Court in proceeding had in connection with the incident) will suffice as a basis for just conclusions as to the actual facts of the incident and that conclusions likely to be arrived at will in fact carry the greater weight with Chinese public opinion by reason of their having been reached by a foreign judicial agency independently of Chinese cooperation and indeed against Chinese obstruction.

4. I am further confidentially advising him that British Chargé d'Affaires informs me that officials of the Foreign Office, while declaring themselves unable to cooperate openly with the commission,

²⁸ Not printed.

²⁹ The commission consisted of: E. Finley Johnson, Associate Justice of the Supreme Court of the Philippine Islands; Sir Henry C. Gollan, Chief Justice of the Supreme Court of Hongkong; and Kitaro Suga, Chief Justice of the Hiroshima Appeal Court of Japan.

have nevertheless intimated that they have sent word privately to local authorities urging them to give such assistance as they may find possible.

MACMURRAY

893.5045/240 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, October 14, 1925—6 p. m.

[Received October 14—2:35 p. m.]

435. My telegram number 431, October 9, 4 p. m.

2. In reply to request that he advise me confidentially of any reasons he might have to apprehend obstacles to the carrying out of the work he had undertaken, Johnson has now telegraphed me in strict confidence:

"Up to the present time, there is no reason to believe that any proof will be presented to an audience except by Municipal Council, McEuen, Everson and Martin.³⁰ An ex parte inquiry with biased witnesses cannot be satisfactory. Opposition to inquiry very general, by best people of all nationalities, based upon prior investigations, and I have another solution of the difficulty more equitable and just to all concerned of which I shall be glad to give suggestion, if desired. The result of the present inquiry will not change public opinion and the inquiry will be of no avail. The long delay of the present inquiry has been unfortunate. Shall insist upon having presented certified copy of the proof taken in the Mixed Court and anticipate serious objections thereto. Shall endeavor to conduct an impartial inquiry into subjects submitted for investigation."

3. I am replying that I should be glad to consider any suggestions he may care to offer though I do not think it would prove feasible to substitute for the inquiry any other arrangement for dealing with the matter; and that I have the utmost confidence in his determination to make inquiry as full and impartial as possible and to bring out whatever he may convince himself is the truth of the matter even though this may compel him to submit a minority report.

MACMURRAY

³⁰ Commissioner of police, police inspector, and assistant commissioner of police, respectively, in the Shanghai International Settlement.

893.5045/240 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, October 15, 1925—1 p. m.

291. Your 435, October 14, 6 p. m. You may inform Justice Johnson that this Government acquiesced in the holding of the judicial inquiry on the understanding that it was to be a public and impartial investigation to "establish and make known the facts" and "fix the responsibilities in regard to the Shanghai incident". You may state that this Government desires that the Commission should pursue its investigation unhampered and freely, invite any evidence that will assist in making clear the facts and that the fullest opportunity be given to anyone having knowledge of the facts to come before it and give without fear any pertinent information that they may have. To that end he is free to take any necessary action to bring out the facts and the truth even though, regrettable as such action might be, this should compel him to make a minority report.

KELLOGG

893.5045/241 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, October 16, 1925—6 p. m.

[Received October 16—1:55 p. m.]

446. My telegram number 437 [435], October 14, 6 p. m.

Following from Justice Johnson:

"October 16, noon. I am gratified at your expressions of confidence. Am submitting each biased witness to severe cross-examination following the line of questioning which the Chinese would probably give. I hope to get at real facts and perhaps to develop important questions. Minority report imminent."

MACMURRAY

893.5045/244 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, October 28, 1925—5 p. m.

[Received October 28—7:48 a. m.]

467. My 446, October 16, 6 p. m. Following from Justice Johnson: "Court has finished inquiry and I will make report in 6 to 10 days."

MACMURRAY

893.5045/253 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 21, 1925—4 p. m.

[Received 6:30 p. m.]

492. My 467, October 28, 5 p. m.

1. I have received for confidential information a copy of Justice Johnson's individual report,¹ the original of which was delivered yesterday to senior minister. Report by British judge received by British Legation although I am not yet informed of its contents. A brief summary of Justice Johnson's report follows.

2. The report confirms the impression gained by diplomatic commission during its investigation at Shanghai as acted upon by Heads of Legation last June to the effect that adequate precautions were not taken by police authorities to prevent disorder. Report rather severely censures McEuen for leaving his post and remaining out of the city at such a time in the following language, "I can see no basis for his, McEuen[']s, absence from duty on that day, without giving notice to his deputy, which can be harmonized with his responsibility. His presence and his personal direction of his police force at Louza station as late as 3:15 p. m. on May 30th last, might have saved the lives of some innocent persons."

3. The report ably reviews under the headings of the terms of reference the facts brought out by the inquiry.

4. It is regrettable however that it does not end at this point with a few briefly summarized conclusions. Instead Justice Johnson exceeds the terms of reference, giving his conclusions in 17 paragraphs and his recommendations in 3 which in the majority of cases embrace topics and offer proofs obviously beyond the scope of the inquiry. For example, under "conclusions": Ninth paragraph, "That those in authority with power to act in order to lessen the complaint of the Chinese people should as speedily as possible bring to a close the negotiations which have been pending for some years relating to the status of and character of the Mixed Court." Tenth paragraph, "That the question of participation on the part of the Chinese people in the actual government of the city of Shanghai, so far as treaty relations will permit, should be taken up, mutually discussed, and settled. The present situation, from the standpoint of many, is intolerable and until settled will continue to be a source of serious grievances." Eleventh paragraph, "That the question of extraterritoriality which compels the Chinese people in his [*sic*] relation with the foreigners and in all of his [*sic*] disputes with them in which he [*sic*] is the aggrieved party to submit to foreign law more or

¹ Not printed.

less, should speedily and without delay be mutually discussed and settled. There exists a basis of settlement which would be fair and reasonable to all parties." Twelfth paragraph, "That the alleged grievance on the part of the Chinese people relating to the loss of sovereignty and territory in the region of the city of Shanghai is also a question which those in authority should not overlook. It is a serious one and its speedy settlement would greatly allay much of the trouble now existing." Thirteenth paragraph, "That the grievance of the Chinese people concerning unjust treaties negotiated with selfish and perhaps dishonest officials is another question which should be carefully considered, mutually discussed and justly settled by all of the friendly nations of the Chinese people [*sic*]." Fourteenth paragraph, "That the foreigners in China have failed to take into account the principles of liberty and independence which they themselves have by precept and example spread abroad throughout China, concerning which the young and rising generation have been apt students."

5. The following three recommendations conclude the report.

"First. That after some of the suggestions made in my conclusions above enumerated have been put into effect that the powers and duties and responsibilities of the governing body of Shanghai be more definitely and precisely defined.

Second. That considering the knowledge which the commissioner of police, Mr. Kenneth John McEuen, had concerning the excited condition of a large portion of the Chinese population within and immediately without the International Settlement, as evidenced by his daily reports signed by himself as commissioner of police from the 11th day of January last up to and including his report for the 30th day of May last, the daily report furnished by Chief Inspector Givens in his 'summary of labor, student and Bolshevik activities and diary of events leading to the shooting incident on the Nanking Road near the Louza station on May 30 last', considering his own admissions in his evidence adduced during the hearing in relation with the fact that he took no precautionary measures whatever to prevent the disturbances of May 30 last and his absence from his station during the afternoon of that date, I am fully persuaded that he does not have a proper appreciation of his responsibility in the maintenance of peace and good order within his jurisdiction. I would therefore respectfully recommend that he be succeeded by one whose performance of duty shall be more nearly commensurate with his very high responsibilities.

Third. Considering the many nationalities living and residing in the International Settlement of Shanghai, it occurs to me that it would be wise and advisable to have the commissioner of police and the deputy commissioner of police selected from among the citizens of two nations so that the blame for disorder and disturbances in the future if they occur cannot be wholly charged to one nation alone."

[Paraphrase]

6. It is very unfortunate that dicta of a controversial political nature should be contained in a judicial finding intended to be published at this time. I have informally talked the matter over with the senior minister. He and I are in agreement that there is no other course to follow than to have the three reports published. The matter cannot be decided, however, until opportunity is given for the Heads of Legation to discuss the reports. I presume such a discussion will take place soon. In this discussion I shall maintain the attitude indicated above unless I receive instructions to the contrary from the Department.

7. Reference your 241, September 11, 5 p. m., our 389, September 10, 5 p. m., and pertinent correspondence with respect to resignation of McEuen. I believe now is the appropriate time for the Department to call to the attention of the British Government their commitment in this matter and to urge the British Government to exert its full influence to secure the immediate submission of McEuen's resignation and its acceptance by the Shanghai Municipal Court. I cannot emphasize too strongly my belief that there should be no further delay in having this resignation submitted and accepted.

MACMURRAY

893.5045/253 : Telegram*The Secretary of State to the Minister in China (MacMurray)*

[Paraphrase]

WASHINGTON, November 24, 1925—7 p. m.

324. Your telegram 492 of November 21, 4 p. m. I am surprised that Justice Johnson should make a report including matters not submitted to the jurists in view of the instructions which the commission received to confine their investigation to the origin and nature of the disturbances, etc. It will probably embarrass us greatly in view of the statement we made to the British Foreign Office that it was our wish to have the investigation limited as it was in these instructions. The evidence may, however, justify Johnson's conclusions and were we to suppress them now or request Johnson to modify his report, it seems to the Department that we would incur severe criticism in this country and in China as having interfered with the action of an impartial justice and as having suppressed his conclusions. Perhaps matters of the same general nature are also dealt with in the other reports. Please inform me as soon as possible. In discussing the matter with the diplomatic representatives of other powers, you can, of course, make it clear to them that the directions to the commission were the only instructions Justice Johnson had

and that we in no way interfered with him and were not informed in advance that he was considering making such a report. In view of the above we are unable to avoid agreeing with your conclusions that when it becomes necessary to publish the report it will have to be published as it stands. We doubt that it is advisable to request our Embassy in London to ask for McEuen's removal before the British Government has had time to take action on its own motion.

KELLOGG

893.5045/254 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, November 25, 1925—10 p. m.

[Received November 25—5:25 p. m.]

498. Your 324, November 24, 7 p. m. I am given to understand by senior minister that the British and Japanese judges in their reports confine themselves to closely narrowed findings of facts based upon the evidence as they understand it and keep within the limits of the terms of reference and that the general purport of both reports is that the Shanghai authorities are free from blame. The report of the Japanese judge was received by the senior minister last night.

MACMURRAY

893.5045/256 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 27, 1925—7 p. m.

[Received November 27—3:55 p. m.]

500. My telegram number 498, November 25, 10 p. m. The following telegram to Shanghai repeated for your information.

"November 27, 7 p. m. In conference with senior minister today, the British and Japanese Ministers and myself agreed to send the following to our respective consuls in Shanghai:

1. Reports of the three judges have now reached senior minister. Very briefly stated conclusions of the British and Japanese judges agree in exonerating police and municipal authorities. American judge while holding that police had no alternative but to fire in the circumstances which arose, considers that they were at fault in having allowed such a necessity to arise.

2. In order to prevent spreading of mischievous and imaginary statements in the newspapers and among the Chinese, senior minister considers that it will be necessary in the near future to make a communication in the above sense to the press, prior to circulation and consideration of the reports, which are very

lengthy, by the diplomatic body, and prior to their eventual publication which will be unavoidable.

3. You should in consultation with your British and Japanese colleagues suggest privately and confidentially to your respective nationals on the Municipal Council the urgent desirability of their spontaneously announcing to the senior consul that now that inquiry has been held they do not wish to take advantage of any difference of opinion but prefer to proceed forthwith to take steps in direction of settlement by offering generous compensation to the victims, both killed and injured, and by devising ways of dispensing with the services of the police commissioner and of the officers actually involved in the incident.

4. Action along the line indicated would seem to be all the more desirable in view of the fact that Chinese Government have just addressed to senior minister a note containing preposterous demands for a settlement of the incident.

Both British and Japanese however send instruction contained in paragraph 3 subject to ratification by their respective Governments. You may consult with your British and Japanese colleagues with a view to the taking of simultaneous action when they advise you they are in a position to do so.

I understand from British Minister that Barton favors and considers entirely feasible such action by the Council as is suggested. Let me ask your fullest and most earnest cooperation in bringing about the desired result as expeditiously as possible, the more particularly as there seems to be a danger that agitation regarding the Shanghai incident may be received [*revived?*] for political purposes.

Please keep me fully and promptly advised of action taken and progress of discussions in this connection."

[Paraphrase.] My own preference would have been to have the reports in full published immediately. However my British and Japanese colleagues were not free to take such action. It may be hoped that the plan now adopted in harmony with their instructions will provide a settlement of the Shanghai incident which will be satisfactory and will give as little emphasis as possible to the embarrassing and unnecessary dicta contained in Johnson's report. This may be accomplished, especially if the Council takes prompt and generous action. [End paraphrase.]

MACMURRAY

893.5045/259 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

WASHINGTON, December 3, 1925—8 p. m.

355. Department's No. 236, July 22, 2 p. m. Your No. 274, August 27, 1 p. m. Department's No. 272, August 21, 5 p. m. and subse-

quent telegrams regarding appointment of Judicial Commission to inquire into Shanghai incident.

It now appears that the Judicial Commission has completed its labors and that the three Judges have submitted separate reports to the Diplomatic Body at Peking. The Department is informed that while the reports of the British and Japanese Judges agree in exonerating police and municipal authorities, the American Judge, while holding that police had no alternative but to fire in the circumstances which arose, considers that they were at fault in having allowed such a necessity to arise, and that he recommends that McEuen, whom he finds not to have had a proper appreciation of his responsibility in the maintenance of peace and good order within his jurisdiction, be succeeded by one whose performance of duty shall be more nearly commensurate with his very high responsibilities.

The Department is informed by the Legation at Peking²² that on November 27 the British, Japanese, and American Ministers telegraphed their respective Consuls in Shanghai outlining the differences in the findings of the Judicial Commission and stating among other things that in order to prevent spreading of mischievous and imaginary statements in the newspapers and among the Chinese, the Senior Minister considered that it would be necessary in the near future to make a statement to the press regarding the findings of the Judicial Commission prior to circulation and consideration by the Diplomatic Body of the reports, which are very lengthy, and prior to their eventual publication which will be unavoidable. The American Consul was instructed that he should, in consultation with his British and Japanese colleagues suggest privately and confidentially to their respective nationals on the Municipal Council the urgent desirability of their spontaneously announcing to the Senior Consul that now that inquiry has been held they do not wish to take advantage of any difference of opinion but prefer to take steps in the direction of settlement by offering generous compensations to the victims, both killed and injured and by devising ways of dispensing with the services of the police commissioner and of the officers actively involved in the incident.

The Department is informed²³ that the British Minister at Peking has informed the American Minister that his Government is withholding authorization for its Consul General at Shanghai to proceed in above manner pending fuller information as to the points on which the reports of the three Judges agree and disagree. The American Minister also reports that the Japanese Minister, at an informal meeting with the British and Dutch Ministers and himself, informed

²² Telegram printed *supra*.

²³ By telegram No. 509, Dec. 2, from the Minister in China (not printed).

them that, "On November 27 Japanese Minister for Foreign Affairs had told British Ambassador that since the reports were not unanimous there was in effect no decision resulting from Judicial inquiry and that he was therefore strongly of the opinion that it would be inadvisable to publish the reports and thus give occasion for the Chinese to play on differences among the interested Powers and that the British Ambassador had concurred." The American Minister reports that the Japanese Minister promised to urge upon his Government the view of this Government that the terms of reference themselves contemplated the possibility of a divided Court and that it was our profound conviction that it would prove utterly impossible to prevent leakage of the substance of the reports and that the attempt to suppress or edit them would only act infinitely more unfavorably upon foreign interests in China.

The above is communicated to you for your information and such use as you care to make of it in discussing matter with British Foreign Office. You will state to the Foreign Office that while it is regrettable that the Commission should have disagreed in its findings this Government feels that it would be most disastrous at the present time, in the face of conditions now existing in China, for the Powers to repeat the procedure which followed the investigation made into the Shanghai incident by the Committee representing the Diplomatic Body in July and to suppress, edit or delay the publication of the findings of the Judicial Commission. Already there has appeared in the press, both in China and in the United States, intimation to the effect that the Powers will refuse to give these reports to the press. You will state to the British Foreign Office that this Government does not feel that it should permit itself to share in the odium of a virtual repudiation of the results of the inquiry which has been publicly conducted by three Judges appointed at the request of the Diplomatic Body. You may add that, howsoever much we may regret the necessity of so doing, this Government will for its part feel obliged, even though there may be no agreement about the publishing of the three reports, to publish the report of the American Judge in the near future.³⁴

KELLOGG

³⁴ By telegram No. 150, Dec. 3, the Ambassador in Japan was authorized to bring to the attention of the Japanese Foreign Office the views expressed by the Minister in China in the fourth paragraph of his telegram No. 509, Dec. 2, to the Department, which are substantially the same as the views embodied in this paragraph. (File No. 893.5045/259.)

893.5045/272 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, December 12, 1925—noon.

[Received December 13—12:15 p. m.]

525. 1. It was not necessary to take the independent action indicated in the fourth paragraph of my telegram No. 89, December 10, to Tokyo,⁸⁵ as the Japanese Minister announced at an informal conference with the British Minister, the senior minister, and myself that the Japanese Minister for Foreign Affairs had decided to consent to having the reports published subject to certain conditions regarding arrangements as to action by the Shanghai Municipal Council on the lines indicated in my 500, November 27, 7 p. m.

2. The diplomatic body at a meeting yesterday morning authorized me and my British and Japanese colleagues to approach the Shanghai Municipal Council through the members on the Council of our own nationalities with a view to having the Council adopt the following measures in order to settle the affair of May 30: (1) The responsible police officers should offer their resignations to the Council and that body should accept the resignations with expressions of appreciation for previous meritorious services; (2) reasonable amounts should be offered to the Chinese victims, such payments to be given not as compensation but as a compassionate grant. There is reason for hoping that these suggestions will be promptly accepted by the Council. It is proposed that when the senior minister is informed that these proposals have been accepted he will announce the arrangement and release for publication the report of June 24 by the diplomatic commission without annexes, the note by which the senior minister on September 15 informed the Chinese Government of the terms of reference and extended to the Chinese an invitation to take part in the judicial inquiry, and a summary of the findings of fact given in the reports of the three judges on the commission. At the same time the senior minister will announce that as soon as necessary copies can be made the reports themselves will be released in full.

3. This telegram is repeated to Tokyo.

MACMURRAY

⁸⁵ In this telegram the Minister proposed to publish Mr. Johnson's report independently on December 15, unless arrangements could meanwhile be made for prompt simultaneous publication of the three reports.

893.5045/277 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 21, 1925—8 p. m.

[Received December 21—9:23 a. m.]

538. My telegram number 531, December 17, 5 p. m.⁸⁶

1. Japanese Minister has just informed me of the receipt of instructions that his Government withdraws its objections to publication of reports.

2. Shanghai Municipal Council has adopted suggestions outlined in second paragraph of my telegram number 525, December 12, noon.

3. Procedure to be followed regarding announcement of action taken and the publication of reports will be considered at a meeting of interested ministers tomorrow. Repeated to Tokyo.

MACMURRAY

893.5045/278 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 22, 1925—9 p. m.

[Received December 22—11:48 a. m.]

540. My telegram 538, December 21, 8 p. m.

1. Interested ministers today authorized senior minister to give out to the press tomorrow afternoon, together with announcement of the action taken by the Shanghai Municipal Council, documents referred to in the second paragraph of my telegram 525, December 12, noon. Publication of full texts of reports will follow in due course.⁸⁷

2. I have expressed to Cunningham my appreciation of his part in bringing about action by Shanghai Municipal Council in accepting resignations of McEuen and Everson and offering \$75,000 solatium to victims or their families. I trust this action brings Shanghai incident to a conclusion as satisfactory as could have been hoped for.

MACMURRAY

⁸⁶ Not printed.

⁸⁷ The Minister in China in despatch No. 430, Jan. 22, 1926, reported that the texts of the reports were to be released to the press by the Senior Minister on January 23 (file No. 893.5045/278).

SPREAD OF ANTIFOREIGN DISTURBANCES IN CHINA*

893.00/5945 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, January 12, 1925—4 p. m.

[Received January 13—6:15 p. m.]

15. My 1, January 2, 3 p. m., paragraphs 8 and 9.³⁹

1. According to telegraphic abstracts published January 8th in Peking newspapers the *North China Daily News* Shanghai conservative, richest and most influential foreign newspaper in China and best served with correspondence from missionaries and others throughout the provinces, published prominently January 7th an article declaring that a serious wave of antiforeign and anti-Christian feeling is sweeping across China. The writer attributes the causes to the failure of the present rulers who are attempting to deflect the popular ~~wrath from themselves~~ to the foreigners, also to the large growth of Christianity recently and the Bolshevik poison. In an editorial on the subject the editor says that many men not given to asserting express the opinion that an explosion is inevitable shortly and that the present propaganda is part of a widespread movement working for general repudiation of the treaties.

2. I telegraphed consul general, Shanghai, January 8th to convene group of representative missionaries and educators and get their opinion on these alarmist articles and also to consult heads of American concerns doing extensive business throughout China and telegraph me the result.

3. In reply received January 11th consul general states that none of our businessmen "have received any intimations from interior representatives of anti-Christian move" but that—

"Missionaries and educators have received reports of anti-Christian move from interior correspondents but the consensus of opinion at present is that the move is but slightly more extensive than in 1922, that it is as well organized but not so intelligently directed, that the move is a natural sequence of the Chinese educators' challenge of mission education and that thus rivalry will likely continue over a long period. It has elements that may cause antiforeign propaganda but as yet it is not apparent. The agitation is purely anti-Christian education or antimission school to date."

4. For explanation of the challenge of Chinese educators to mission schools see the report of the resolutions, especially resolution number 7, passed by the Tenth National Conference of Chinese Educational

* See also sections entitled "Participation by the United States in efforts to solve problems arising from the disturbances at Shanghai, May 30, 1925," and "Intensification of antiforeign feeling in Canton after the firing at Shameen," pp. 647 ff. and 749 ff.

³⁹ *Ante*, p. 588.

Association[s] held at Kaifeng, Honan, October 15th to 28th, 1924 as enclosed in despatch to the Department number 898 December 17th [15th] from the consul general at Hankow.⁴⁰

5. It may be questioned whether the association's proposal to restrict and eventually to terminate the educational work conducted under the auspices of foreigners in China and to prevent the use of foreign schools or other educational agencies for the propagation of religion, is, as our Shanghai missionaries and educators declare, an agitation "purely anti-Christian." Besides the religious mistakes, in [sic] which among a people so essentially nonreligious and tolerant as the Chinese may indeed be the weakest, I suspect the presence and operation of the following influences: (1) the ever-present Chinese aversion to foreigners and a new sense of the danger of foreign control of education, (2) the rising consciousness of nationality and the aspiration for a system of national education, (3) Bolshevik propaganda against other nations in China which has been especially successful in winning over and utilizing educators and students, and (4) a Bolshevik and Chinese drive against the so-called "Anglo-Saxon nations" who support most of the foreign missions and schools in China. France and Italy are scarcely mentioned in this connection and of course Japan not at all.

6. Japan is not averse to this agitation against foreign, that is, Christian nations in which she is naturally regarded as on the side of China. Foreign diplomats often speak of national value to America of her thousand missionaries and hundreds of schools and hospitals in China. In this respect America comes first, Great Britain poor second. In the present agitation Japan sees us attacked at our most vulnerable point as the friend and helper of China while she is entirely immune.

7. I do not associate Christian General Feng Yu-hsiang⁴¹ or even Sun Yat-sen⁴² with this anti-Christian agitation. Both, it is true, demand the revision of "unequal treaties" between the foreign nations and China and in this respect Chinese public opinion is unanimously behind them. They are exponents not of Bolshevism but radical nationalism though they may be willing to utilize the Bolsheviks in their political manoeuvres as, in Hunan, Feng's lieutenant, Hu, is today using bandits in his army. Both Sun and Feng have taken pains to disassociate their political movement from Bolshevism; for the [latter] see my telegram of January 2, 3 p. m., number 1, paragraph 5. As to Sun whom a half dozen German, American and Chinese physicians in a public bulletin pronounce very sick man and for whom they

⁴⁰ Not printed.

⁴¹ Commander in chief of the People's Army and director general of the Northwest Frontier Defence.

⁴² Leader of the Kuomintang Party.

prescribe complete rest, Eugene Chen came to me January 3rd and endeavored to explain away from his chief's record in Canton all appearances of Bolshevism. Professed program of Sun and Feng in relation to foreign nations would seem to be not very different from that indicated in my Shanghai speech ⁴³ as the policy of the United States. Undoubtedly these leaders have found that the Chinese people have been scared by the danger of Bolshevization and that foreign nations would not tamely submit to the repudiation of the treaties. I do not believe they would encourage or tolerate attacks on foreigners even if they succeeded in driving out Tuan ⁴⁴ who has already given formal assurance of protection to foreigners.

8. If an attack were made on foreign nations over any issue arising out of the Christian activities of foreigners in China I do not share the opinion of the editor of the *Peking & Tientsin Times* of January 9th that Japan in the interest of civilization would rally to the support of the foreign nations. On the contrary I should expect to see her emerge, without perhaps taking any active part, as the friend, helper and protector of China against the western nations.

SCHURMAN

893.00/5951 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, January 16, 1925—2 p. m.

[Received January 16—11:44 a. m.]

27. My 15, January 12, 4 p. m. paragraph 5.

1. Consul general, Shanghai, January 15th telegraphed as follows:

["]After the meeting of the American church mission board, Dr. Hawks Pott confidentially stated that the anti-Christian move looks worse than he thought at first and he regards it to be political. He stated the situation in connection with anti-Christian propaganda is becoming more and more serious and is looked upon by clear-thinking good educators and leaders as a dangerous thing not only to the Christian institutions but to the nation at large."

2. Dr. Pott, a graduate of Columbia who is president of Saint John's University, is one of the wisest and best informed missionary educators in China and understands Chinese psychology. . . .

3. The *Chinese Recorder*, a monthly journal of the Christian movement in China, in editorial in January number received today says:

"The situation facing Christian educational work in China today is a critical one. For years past missionaries have been free to conduct such schools as they saw fit. Their right to do so is not [*now?*] being

⁴³ At the Union Club of China, Dec. 17, 1924.

⁴⁴ Tuan Chi-jui, Chief Executive of the Provisional Government of China.

questioned by influenced [*sic*] groups of Chinese educators on the ground both of their foreign nationality and of the religious character of the education given. The resolutions passed by national federation of educational associations at its recent meeting in Kaifeng if approved by the board of education in Peking would force all Christian schools either to take religious courses out of their requirements or to close their doors. Either of these courses would be fraught with serious consequences for the growing Christian communities in China.

"We question whether the Government will press the issue at this time since Christian schools are recognized by many responsible people outside Christian circles as performing a useful function and since moreover the Government is able to provide educational opportunities for only a fraction of the children of school age. At the same time Christian educators will recognize that we are facing new conditions."

SCHURMAN

893.00/6010 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, February 5, 1925—4 p. m.

[Received February 5—7:15 a. m.]

60. My 27, January 16, 2 p. m. Following from Canton:

"February 4, 3 p. m. Antiforeign campaign continues including mass meetings and parades. Powers are accused of intrigue with military government in opposition to Sun Yat-sen regime; the United States accused of landing marines at Nanking for alleged purpose of aiding the military.

Local situation becoming very tense because of Sun's illness and Chen Chiung-ming's⁴⁵ threatened attack on Canton."

SCHURMAN

893.5045/64 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 4, 1925—noon.

[Received June 4—5:57 a. m.]

201. Following from consul, Changsha:

"June 3, 1 p. m. Students of all the schools in Changsha striking today because of the May 30th affray in Shanghai. Many private rikishas demolished last evening on the main streets. Boycott against British and Japanese declared. The situation is serious but is under control."

MAYER

⁴⁵ Commander of Kwangtung forces opposed to Kuomintang Party.

893.5045/73 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 6, 1925—7 p. m.

[Received June 6—10:25 a. m.]

207. Following from consul, Amoy:

"June 6, 10 a. m. Student demonstration carried out this morning; about two thousand in procession; one-day strike also declared. Agitators are arriving from Shanghai this afternoon. Antiforeign boycott appears probable. Feeling against Japanese and British is running high and trouble may be expected. Understand that Japanese consul is in communication with Japanese warships which evidently are in close proximity. British consul has informed his naval authorities at Hongkong of local situation."

Repeated to commander in chief.

MAYER

893.00/6247 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 7, 1925—11 a. m.

[Received 11:25 a. m.]

208. Following from consul, Nanking:

"June 6, 8 p. m. There was serious rioting in Chinkiang British Concession yesterday afternoon. Municipal building was wrecked, fires started but extinguished, Concession now defended by volunteers and Chinese troops.

In Nanking, situation as regards British and the Japanese is becoming gradually worse but no hostile demonstration against Americans."

MAYER

893.00/6252 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 10, 1925—11 a. m.

[Received June 10—7:05 a. m.]

214. The following telegram has been received from the consul at Antung:

"June 9, 6 p. m. At noon today Japanese police opened fire on Salt Gabelle patrol attempting to arrest Korean smugglers off shore of Japan[ese] Concession, killing five Chinese, then marched en masse into Chinatown and surrounded Gabelle office. They have returned to Japanese Concession. Feeling running high among Chinese."

MAYER

893.5045/87 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 13, 1925—11 a. m.

[Received June 13—8:17 a. m.]

218. My 217, June 12, 6 p. m.⁴⁶ Telegrams received from American consuls at Foochow, Tsinan and Tsingtau during past few days report student strikes and parades with banners and distribution leaflets making demands in general similar to Peking students as reported paragraph 1 my 202, June 4, 5 p. m.⁴⁷ At Tsingtau and Tsinan boycott of British and Japanese goods demanded by students. No acts of violence. Consul at Swatow reports small strike of workmen in four American firms threatens [to] become serious, and tense situation has been created by Shanghai incident. Consul general at Canton estimates that 30,000 men are now engaged in fighting in and around Canton. United States ship *Pampanga* was fired on by mistake, for which Yunnan general has expressed regret.

MAYER

893.00/6260 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 13, 1925—3 p. m.

[Received June 13—9 a. m.]

219. The following telegram has been received from the consul general at Hankow:

"June 12, noon. Detachments of British sailors defending sailors [*British?*] Concession fired on mob Chinese coolies about 10:30 p. m. on 11th instant; four Chinese killed, six wounded. At 7:30 p. m. mob rushed southern end of the British bund throwing stones. At 8 o'clock British sailors were landed [as] the general alarm sounded. The mob was driven back and the roads around the Concession picketed and wire entanglements laid. Mob then proceeded to rear Concession and pressed into it forcing back one street the British naval forces unit and volunteers when the firing occurred. All foreign naval and volunteers forces including American guarding Concession, sailors defending boundaries and there is a cordon of Chinese troops beyond the boundaries to ward off rioters. Chinese authorities now control mob and further serious disorders not expected. Coolies had been instigated by student agitators. Commissioner of foreign affairs when first approached by British consul general was apathetic; and the detachment of troops sent tardily by garrison commander looked passively on and [*sic*] mob otherwise and [*sic*] shooting could have been avoided. One Japanese killed

⁴⁶ *Ante*, p. 664.⁴⁷ *Ante*, p. 652.

and five wounded by mob before the shooting occurred. All Japanese property on the back spaces of British Concession totally destroyed.

One American gunboat now Hankow and two destroyers due today. These vessels desirable to furnish American quota of the forces required to carry out the defence scheme which as amended recently by the senior naval officer and volunteer commanders with the sanction of the consular body now includes special administrative district. British consul general has requested cruiser to be sent here. Consular body today decided to make strongest representations to the *Tupan* fixing responsibility for the incident on provincial authorities".

MAYER

893.00/6259 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 13, 1925—4 p. m.

[Received June 13—8:40 a. m.]

220. Following is excerpt from telegram from Swatow of June 10, 9 a. m.:

"Today's newspapers accuse United States and France of perfidy in joining with Great Britain in diplomatic corps' defence of police authorities. Also cite four needless killings of Chinese by American troops in 1912. There is every reason to believe every effort is being made by Bolshevik agitators to involve the United States but up to the present time students and other organizations have shown no definite anti-American feeling."

MAYER

893.00/6263 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 14, 1925—4 p. m.

[Received June 14—1:20 p. m.]

226. Radio, Admiral McVay to Commander, state[s] that according to report from Japanese destroyer Japanese and British consulates at Kiukiang completely destroyed by mob on June 13th. Japanese destroyer sent landing force. No casualties reported. Order restored in Concessions while 500 Chinese soldiers protecting foreigners living outside. If necessary American destroyer will be sent from Hankow.

British Legation's reports are to effect that Chinese officials assumed full responsibility for protection prior to event but failed to send troops for 3 hours.

MAYER

893.5045/90 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 15, 1925—10 a. m.

[Received June 15—11:27 a. m.]

228. My 217, June 12, 6 p. m.⁴⁸

1. Continued demonstrations in Peking and other agitation regarding Shanghai incident especially distribution of pamphlets and pictures calculated to incite extreme antiforeign feeling. Heads of Legation through senior minister have sought ineffectually past few days to cause Chinese Government either to put a stop to the above or make necessary arrangement to prevent demonstrations from coming into direct contact with Legation Quarter as has twice occurred when effort made by bodies of students to rush gates of Quarter. Chinese Government acknowledges unable to prevent contact between Legation guards and demonstrators.

2. Senior minister at meeting of Heads of Legation yesterday afternoon stated he was informed on most reliable authority that group of extremists would attack Foreign Office on 15th, establish people's commissar for foreign affairs, and incite mob to assault Legation Quarter. Japanese Minister had same information and chief of police also. General sense of meeting that Soviet and Communist activities in Peking greatly increased to the end that some incident involving foreigners should take place and that Feng Yu-hsiang's troops now in Peking not to be relied on in the circumstances.

3. [Paraphrase.] Chang Tso-lin caused a message to be sent to the senior minister confidentially and privately that if desired he would send 10,000 soldiers to Peking to obtain order. This message the senior minister placed for action before the Heads of Legation. Most diplomatic representatives believed that a grave and menacing situation confronted foreigners in the capital because of Communist activities, the paralysis of the government of Tuan Chi-jui, the reaction to the riots at Hankow and Kiukiang and the general condition of disturbance throughout China. With this situation in view they believed it imperative that the Heads of Legation, in reply to Chang Tso-lin, welcome any aid in maintaining law and order here.

4. I was most emphatic in stating that under no circumstances did the American Government wish to take sides in conflicts between Chinese factions; that I thought our neutrality might be seriously compromised by the step which the Heads of Legation proposed; that it was my opinion that Chang would of necessity be forced to assume control in Peking with or without an expressed welcome

⁴⁸ *Ante*, p. 664.

from the Heads of Legation concerned if the Communistic menace was as great as my colleagues believed; and that I would not be surprised, in view of my previous experience with him, if Chang were trying again to use the Communistic menace to secure some form of support from the powers for himself. The British Chargé expressed himself categorically in a similar sense. The Italian Minister assured me that he had information entirely independent of that from Chang Tso-lin as to the Communistic menace to foreign lives and property. It was stated by all Heads of Legation that they had no wish to take sides in disputes between factions. They felt, however, that foreign lives and property were in great danger not only in Peking but throughout China and that we must take advantage of all possible assistance both to protect ourselves and to prevent any untoward incident between Chinese and foreigners which would precipitate an antiforeign outburst.

5. My British colleague and I decided after long argument and discussion that we could not assume the responsibility of preventing action desired by the other Heads of Legation. We caused a formula to be adopted, however, for such action by which I believe our neutrality will not be compromised. The Italian Minister was authorized to make confidentially and orally a statement to the representative of Chang Tso-lin, a translation of which follows. [End paraphrase.]

"The interested Heads of Legation have taken cognizance of the considerations which Marshal Chang Tso-lin has conveyed to them concerning the necessity for the reestablishment of order in Peking in order to prevent further difficulties and the development of a situation which threatens to become dangerous. They have the honor to make known to him that, preoccupied above all with the question of assuring the safety of their nationals, [they?] shall welcome with satisfaction any support which would be given to the Government for the maintenance of order and for taking appropriate measures to the end that the present agitation may cease."

6. While the British Chargé d'Affaires and myself do not completely share the apprehension of our colleagues as expressed above I view the situation with a certain alarm because of the undoubted intense Soviet activities for the purpose of stirring up trouble in all quarter[s], and by reason of the entire paralysis of the present Government in Peking. I am in constant communication with commandant of Legation guard concerning the protection of our nationals in Peking in any eventuality and shall take requisite steps to that end.

7. Respectfully request Department's views in the premises.

MAYER

893.00/6265 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 15, 1925—2 p. m.

[Received June 15—9:50 a. m.]

229. My 226, June 14, 4 p. m. Consul general at Hankow reports British and Japanese consulates and British municipal building at Kiukiang looted and bank of Taiwan burned. State of affairs in Chungking is serious and situation at Hankow is becoming more tense.

MAYER

893.5045/81 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 16, 1925—noon.

[Received 12:25 p. m.]

231. My number 228, June 15, 10 a. m.

1. Yesterday passed without disorder. Some 15,000 students and workmen paraded in orderly fashion, precautions being taken by moderate faction of students to prevent extremists from causing trouble. Demonstrators insisted in call upon Chief Executive that Government carry out following demands: (1) To sever connection with England; (2) to instruct Hsiao Yao-nan⁴⁹ to send troops for the purpose of protecting the Chinese merchants in foreign concessions at Hankow; (3) to circularize all provinces by telegram to organize a national relief army. Chief aide to Tuan stated that the Government would discuss demands at Cabinet meeting on the 16th when the demonstrators were requested to send representatives to attend meeting.

2. At my suggestion senior minister authorized to call upon Chief Executive yesterday morning in order categorically to request from him guarantee of protection of life and property of foreign residents in Peking. Tuan Chi-jui gave such assurance in emphatic terms stating that he had ordered one division of Minister of War's troops to come to Peking to assist in maintenance of law and order. These troops belonging to Feng Yu-hsiang's forces were stationed about the city yesterday morning especially at the approaches to the Legation Quarter in support of the police.

3. General strike scheduled to take place yesterday postponed to 25th at meeting of representatives from many educational, commercial and labor organizations, the plan apparently being that on above

⁴⁹ Tschun of Hupeh Province.

date governmental, commercial, industrial and educational activities throughout the country will be stopped from 6 in the morning until noon; amusements of all kinds suspended, flags flown at half mast and demonstrations to take place throughout China.

4. The tension at Peking seems somewhat relieved today and I feel more at ease regarding local situation owing to steps taken by Tuan Chi-jui as described above as result of our continuous efforts to arouse Chinese Government from its apathy.

5. No reaction from *démarche* of Heads of Legation note in paragraph 4, my number 228, June 15, 10 a. m.

6. Recent interview with representative of Shanghai students who also called on my Italian, French and Belgian colleagues very satisfactory. Burden of representative's remarks were [*was*] that students realized the difficulties of present situation, importance of absence of antiforeign incidents and necessity for calm atmosphere in which Foreign Office and Heads of Legation concerned could solve present situation. The assistance of United States requested to see that justice be done. I expressed my profound gratification on learning the point of view of Shanghai students. I assured them through representative of the desire which my Government as well as all the Governments concerned had to see justice done, the great regret over the Shanghai incident no matter who was to blame, and my personal feeling that the hope of China lay in the new generation of students upon whom therefore grave responsibility rested for producing a state of affairs in China which would permit the powers concerned at the earliest moment practicable to carry the aims of the Washington Conference to their logical conclusion.

MAYER

893.5045/90 : Telegram

The Secretary of State to the Chargé in China (Mayer)

[Paraphrase]

WASHINGTON, June 16, 1925—5 p. m.

108. Legation's 228, June 15, 10 a. m. Department endorses your attitude as described in fourth paragraph of your telegram, i. e., that the American Government wishes to avoid any action that would apparently place it in the position of taking sides in conflicts between Chinese factions.

The Department believes that considering sentiment which you report to have existed in the diplomatic corps you were wise in not taking the responsibility of preventing action set forth in your fifth paragraph which was desired by the Heads of Legation. Your attitude is commended.

KELLOGG

893.5045/93 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 17, 1925—6 p. m.

[Received June 17—2:50 p. m.]

234. My number 217, June 12, 6 p. m.⁵⁰

1. A further note will be presented Wai Chiao Pu, being sent this afternoon, drafted at this morning's meeting of Heads of Legation. In substance note calls to serious attention of Chinese Government the agitation now existing in China which, increasing as it is, has placed the lives and property of foreign nationals in peril. A brief review follows of Hankow, Kiukiang and Chinkiang incidents and recent murder of foreigners in outskirts of Shanghai Settlement. Note closes with the following paragraph, translation:

"The incidents referred to above are the most serious which have been brought to our attention but from all sides we are informed that there is developing an antiforeign sentiment and subversive tendencies which cause us the gravest apprehension. Wishing above all to dispel every cause which might result in impairing the cordial relations which exist between China and the foreign governments, my colleagues and I once more draw the most particular attention of the Chinese Government to the gravity of the present situation and the imperative necessity which is incumbent upon it to meet that situation."

Note is being published.

2. While technically the Kiukiang, Hankow and Chinkiang incidents pertained principally to the British and Japanese Governments, actually safety of all foreigners in China is involved in increasing agitation. In addition to above consideration, use of international naval forces, whose necessary activity on behalf of said foreigners may at any moment produce an incident wherein any of the foreign powers having naval forces in Chinese waters may be directly concerned, and the necessity of showing united front at this time, lead me to concur in this note.

MAYER

893.5045/88 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, June 18, 1925—3 p. m.

110. Your 217 June 12 6 p. m.⁵⁰ paragraph 5 last sentence. For your strictly confidential information. On the 15th instant I saw the Chinese Minister and made the following informal statement to him:

⁵⁰ *Ante*, p. 664.

"The United States has, as it always has had, the most friendly feeling toward China and is desirous of being helpful. The Department views with apprehension the continued anti-foreign demonstrations and disturbances in several parts of China. While the situation at Shanghai, according to late reports, has somewhat improved, the disturbance has spread to other places. I am apprehensive lest the continuance of these demonstrations should bring some harm to American life and property. If such an untoward incident occurs the effect on the American public will surely be changed from the present friendly attitude. In view of the readiness of the Diplomatic Body at Peking to cooperate with the Chinese Government in investigating and settling the matter, something should be done by the Chinese Government to prevent the spread of these disturbances." In a general discussion with Minister Sze I also said "the Government of the United States is pleased that the Tariff Conference will be held soon and hopes that an atmosphere will not be created to hinder it from convening at an early date or from achieving the desired end. There are also other conferences called for by the Washington Agreements to be held in the future and such conferences are unlikely to bring about good results unless held under favorable circumstances and in a friendly atmosphere. An unfavorable atmosphere may make it impossible to achieve any suitable results."

The Department understands that the Minister telegraphed his Government in the sense of the above.

KELLOGG

893.00/6291 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 19, 1925—10 a. m.

[Received June 19—6:12 a. m.]

235. Following from American consul at Chungking:

"No reports yet received justifying advice to Americans to be in readiness to leave. Student and labor agitation against British and Japanese growing. Three foreigners, British, Swedish, Polish, severely beaten by mobs. Chief danger is that General Yuan Tsuning's troops may assist agitators. British consul is moving from the consulate in the city to British gunboats across the river because of the forced desertion of staff and servants. It is believed that he is adopting only feasible course. Small crowds yesterday threw stones into the Japanese premises but there is no disturbance today. Japanese consul is remaining in Japanese consulate for the present. Consuls exerting every effort to avoid circumstance that might give rise to attack upon any foreigner. There is no agitation at present against Americans."

MAYER

893.00/6305 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 24, 1925—3 p. m.

[Received June 24—7:31 a. m.]

246. Following from American consul, Amoy.

"June 23, 10 p. m. Situation has assumed a graver aspect resultant insistence of unruly elements to demonstrate on Kulangsu. Municipal Council acting in the interest of International Settlement have requested consular corps naval protection. Requests have been addressed to their respective naval authorities by the British and Japanese consuls. They have requested that their vessels rendezvous at Chapel Island, Amoy, in view of the gravity of the situation and the statement by the Chinese today that they could not guarantee protection of life and property in the Settlement, together with request of Municipal Council and the announcement of the latter that the Settlement police were insufficient to protect foreigners and property in the Settlement, as well as the fact that a Japanese or a British naval vessel and landing party would only precipitate or aggravate local situation. I recommend naval assistance capable of putting ashore at Settlement landing party of about 100 be sent immediately and anchor outer harbor off Standard Oil Company installation Sung Sua, Amoy. Such action would not be misconstrued by the Chinese authorities here who would cooperate. Boycott with the possibility of a general strike against the British and Japanese appears inevitable and will probably take place here 25th or before. Student and other agitators active. Boycott against the two above-mentioned powers already commenced at interior points. Regarding oil situation I have seen and persuaded General Chang at Changchow today to cancel tax, and supplies are again moving. General Chang has advised me all Americans which amount to approximately 100 at Changchow are perfectly safe and well there and there is every reason to believe he will afford the necessary protection if required. I have exceeded my telegram allowance by approximately \$25 gold. Urgent."

Pertinent parts repeated to commander in chief.

MAYER

893.5045/105 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 27, 1925—3 p. m.

[Received June 28—10 a. m.]

251. My number 228, June 15, 10 a. m. paragraphs 3 to 5 inclusive.

1. At meeting of Heads of Legation this morning apparently called at the request of Japanese Minister, latter stated agent of Chang Hsueh-liang⁵² had informed him through his military at-

⁵² Son of Chang Tso-lin. See par. 3 of telegram No. 211, June 8, from the Minister in China, p. 660.

tachés that in view of Communist activities and the like Chang Hsueh-liang considered situation in Shanghai would grow worse unless it was soon settled and that he desired to place his services at disposal of Heads of Legation to assist in bringing about a speedy and happy conclusion of the Shanghai incidents.

2. While Italian, French and Belgian Ministers in general way seemed to favor a polite but vague reply to Chang Hsueh-liang in no manner accepting his proffered assistance, yet they appeared quite favorable to requesting from him a more precise statement of whatever he might have in mind. I observed that I was opposed to our flirting with Chang Hsueh-liang or any factional leader in China; that I had reported to the Department my statements at meeting of Heads of Legation on June 14th last regarding the position of the United States in the above regard and that my Government had informed me that my statements had exactly expressed its attitude; that therefore I suggested the reply to Chang Hsueh-liang while of course polite should not be of a tenor to encourage a further *démarche* of this description on his part. The British Chargé d'Affaires expressed himself as entirely concurring in my view as being that likewise of his Government, adding a further caution against statement on our part which might give any factional leaders reason to believe we desired further communications from them of the nature of Chang Hsueh-liang's or that we were prepared to accord any measure of support thereto. The Heads of Legation then authorized the Japanese Minister to reply to Chang Hsueh-liang's agent in the tenor of the suggestion made by Mr. Palairét and myself.

3. Repeated to Tokyo.

MAYER

893.00/6399 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 16, 1925—5 p. m.

[Received July 16—9:27 a. m.]

275. Following from American consul at Swatow :

"July 11, 3 p. m. Cantonese troops attacked and looted British mission at Wukingfu on July 9. One man, two women stripped and beaten by the troops but escaped to Swatow. American missionaries at mountain resort very near Wukingfu have been heard from but they are safe. I am taking all possible measures to secure protection of life and property. Local situation comparatively quiet with complete boycott and strike against British and Japanese. Local merchants aroused by the extortions of students and strikers and threaten open resistance."

MACMURRAY

893.00/6461 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 31, 1925—1 p. m.

[Received July 31—10:40 a. m.]

303. Following from Amoy:

"Madras [*sic*] situation, while comparatively quiet, is very uncertain and looks portentous. Boycott against the British and the Japanese is being rigidly enforced, practically all Americans have come from the interior to Amoy. Conditions in the interior reported to be fairly quiet although an intense anti-British propaganda and boycott is being carried on with the acquiescence and assistance of the Chinese military authorities.

It is believed acts of intimidation and terrorism are being carried out in Amoy by the agitators for the strike. Monday last, an attempt was made in the International Settlement to assassinate Mr. Wong, Chinese Secretary, Kulangsu Municipal Council. Wong is now in local hospital, condition uncertain. Tuesday evening 6 o'clock Lim, prominent educationalist and the leader of the antistrike movement, shot and killed in the street Amoy, assailants of both escaped, no arrests. According to the voting of local bodies yesterday radical elements which are led and governed by the Kuomintang Party have prevailed; and strike against the British and the Japanese will be carried out here August 1st. I am of the opinion that in view of the acts of violence which have taken place, the conservative elements will be frightened [*afraid?*] to take measures against the radicals and extremist Chinese laborers hereabouts, claiming have the situation in hand; but nevertheless they are adopting a vacillating policy and appear to hesitate taking action against radicals. British consul informed me that he has requested naval protection and that the British warship *Foxglove* arrives here Saturday morning. I am of the opinion that the presence of naval vessel here will have a restraining influence on the extremist elements. While apparently Americans and American interests are for the present in no danger yet in view of this being an international settlement and also the possibilities of the situation I recommend cooperation with the British in the matter of naval protection of life and property. Further developments will be telegraphed immediately."

Commander in chief informed.

MACMURRAY

893 00/6568 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 30, 1925—1 p. m.

[Received August 30—3:55 a. m.]

363. Consul at Amoy reports today situation quiet, boycott weakening. Presence of United States ship *Hart* no longer necessary.

MACMURRAY

893.00/6590 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 9, 1925—11 a. m.

[Received 2:10 p. m.]

384. My telegram No. 293, July 28, 9 p. m. [a. m.]⁵³

1. It appears that by a process so gradual that the phases of its development have scarcely been discernible there has come about in general an abatement of the tensivity of Chinese feeling such as to warrant the hope that the crisis has passed. The Chinese no longer "see red"; the aggressive movement against foreign rights and interests has slackened; strikes and boycotts continue apparently out of sheer momentum but with no new impulse behind them.

2. These generalizations are subject to local exceptions particularly in the case of Canton which is now more than ever under Soviet domination and to that extent abnormal to Chinese conditions. They are moreover subject to the qualification that they are less strictly applicable to conditions in proportion to the distance south from Yangtze.

3. To a large degree also a distinction must be made between British and other interests. The Japanese originally grouped with the British have from the beginning perceived psychological crux of the problem and by an assiduously conciliatory attitude towards Chinese sensibilities have succeeded almost completely in "getting out from under" and putting themselves on virtually the same basis as those who like ourselves have been merely incidentally affected by the present outburst of ethnical self-consciousness on the part of the Chinese. The British Chamber of Commerce and China Association of Shanghai have recently adopted and communicated to the Chinese Chamber of Commerce resolutions so ludicrously ingratiating in contrast with the previous attitude of community which they represent that the fact of their being received without adverse comment is in itself an evidence of subsidence of Chinese feeling even towards the British.

4. Although the aggressiveness of feeling may have passed its crisis it would be a mistake to assume that the volcano has burnt itself out, that the danger is over and that things in China have reverted to what they were before. The passionate intensity of feeling has been succeeded by a new sentiment that involves at once sullenly suspicious attitude towards foreign nations and a rather complacently self-conscious conviction that Chinese have scored once and can do it again when they want to. Representative Chinese talk in more or

⁵³ *Post*, p. 799.

less detached fashion about the defects and possibilities of mass action, half apologizing for the abatement in the movement of self-assertion and half-threatening recrudescence of it if occasion should arise. I believe there is still the possibility of a new movement which might be set in train by affront to their pride even by some casual accident as the situation is still explosive.

5. The recent after-developments of the situation seem to add confirmation to the belief that the whole crisis through which the Chinese Government have been passing is emotional rather than logical and that it is less concerned with substraction [*abstract?*] rights and obligations (which are only vaguely understood by any but the exceptionally keen minds among them who for the most part understand also the reasons for abnormal state of things in China) than with appearances and amenities of intercourse.

6. There is of course a development here which, whatever the crudities of its manifestations, is real and must be met. But it is accompanied by much plausible assumption which has no basis whatever in fact. Idealistic though term of about the [apparently garbled groups] possibilities of the Chinese people and sympathetic towards their somewhat elementary yearnings towards nationality, it is a case [*sic*] nevertheless incumbent upon those who deal with China today to keep in mind that in relation to the present problem China consists of two elements: first, the faction recognized as the government which is in control in Peking and which only wants money to go on with, and second, the articulate element of China's population which, most of it, holds the so-called government in contempt but is momentarily willing to array itself behind that effigy or [*of*] sovereignty for the sake of gaining "face" for the ethnic group which calls itself the Chinese nation as opposed to the foreigner. It behoves us therefore to be on our guard against the assumption that a concession to be [*the?*] government is *ipso facto* concession to that growing national sentiment with whose healthy development we would be disposed to sympathize. It is in fact quite possible that any concrete concession enabling the present governing faction to consolidate its power over the country would incur the active resentment of the very elements which are urging in the abstract the necessity for such concessions. I venture this observation in view of the considerable amount of American comment reprinted here which advances upon the facile assumption that the problem is to decide whether or not we are prepared to satisfy the legitimate aspirations of the Chinese people.

7. Repeated by mail to Tokyo.

MACMURRAY

VICTORY OF THE RADICAL WING OF THE KUOMINTANG IN CANTON

893.00/6226 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, May 29, 1925—1 p. m.

[Received May 29—9:07 a. m.]

192. Under date of May 28, 3 p. m., American consul general, Canton, telegraphs in substance as follows:

The Central Executive Committee of the Kuomintang at special meeting at Canton on May 23rd adopted resolution severing all connection with the Peking Government and that henceforth party should devote efforts towards cooperation with Soviet Government. Wide breach of conservative members Kuomintang allied with Yunnan and Kwangsi military groups on one hand and radicals including present civil administration and Cantonese troops together with Russian trained and officered volunteers. Unless civil administration resigns and peaceful means found to check Soviet influence, clash seems inevitable. Ma Soo⁶⁴ has been expelled from the party and has been in conference with representatives of militarist factions including Peking to fight Soviet influence in Canton. Ma Soo asserts Canton administration subservient to Russian Communist influences and receives regular financial support from Moscow. Civil Governor has promulgated order restricting religious instruction in foreign missionary and other schools. Situation in Canton more delicate than any time since death of Sun Yat-sen.⁶⁵

MAYER

893.00/6228 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 2, 1925—11 a. m.

[Received June 2—3 a. m.]

195. My 192, May 29, 1 p. m. Following from American consul general, Canton:

"June 1, 4 p. m. Local conditions very critical. Officials continually going and coming between Canton, Hongkong and Swatow. Yunnanese entrenching near White Clouds Mountain with intention resisting General Hsu's army now reported returning from Swatow. Government has issued denial it is Communist but shows every indication determination to fight."

MAYER

⁶⁴ Former personal representative of Sun Yat-sen at Washington.

⁶⁵ Leader of Kuomintang, who died Mar. 12, 1925.

893.00/6246 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 5[6?], 1925—3[4?] p. m.

[Received June 5—9:30 a. m.]

205. Referring to my telegram [apparent omission] consul general, Canton:

"June 5, 3 p. m. Referring to my telegram May 28, 3 p. m. and subsequent telegrams. General Hsu's Cantonese army now understood to be within 40 miles of Canton. Yunnanese entrenched in eastern suburbs and contact with opposing forces is expected within 36 hours. Entire civil administration established in cement works on Honan Island protected by sand bags and other barricades. Yunnan troops said to be short of ammunition and artillery. Opinion is that they will be defeated. Administration issuing series of proclamations denying it is Communist but at the same time promises numerous Socialistic reforms to laborers and peasants.

Have advised Americans to leave suburbs where fighting likely to occur and many women and children have already removed to safer points.

Asheville is here and Pampang is expected tonight. Critical local situation has prevented any serious anti-British manifestations so far but we are apprehensive. Telegraph line to Hongkong is interrupted. I have warned leaders of the opposing forces that we expect American lives and property to be protected. Department is not informed."

MAYER

893.00/6248 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 9, 1925—9 a. m.

[Received June 9—3:46 a. m.]

212. My 205, June 6, 4 p. m. The following telegram, 29 hours in transmission, has been received from the consul general at Canton:

"June 7, 5 p. m. Referring to my telegram of June 5, 3 p. m. Fighting began about 4:30 p. m. on Saturday and still continues. All Americans safe so far."

MAYER

893.00/6250 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 9, 1925—6 p. m.

[Received June 9—1:19 p. m.]

213. My 205, June 6, 4 p. m. Following from consul general, Canton:

"June 8, 4 p. m. Referring to my telegram of June 7, 5 p. m. Firing continues with growing intensity, opposing troops firing at each other across the waterway dividing city proper from Honan Island. Gunboats loyal to the Government frequently run through this outside [*sic*] firing point-blank into the native city. Yunnanese continue to hold their ground but Government's forces are being strengthened by the arrival of contingents from outside though not so rapidly as was to be expected. Governor and all important officers loyal to him have gone to Whampoa. Yunnanese announce that they support Kuomintang but are against Communists.

All Americans safe so far. Canton American hospital has been struck by one small shell and several rifle bullets. On Saturday afternoon after the first outburst of shooting had ceased two American launches returning to the Christian College frequently hit by rifle shots but the occupants escaped injuries. Have protested. Also warned Americans to avoid dangerous area. Upon consulate's advice most women and children have moved from Tungshan suburb and other strategic points. *Pampanga* now at Christian College and *Asheville* off Shameen."

MAYER

893.00/6262 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 14, 1925—1 p. m.

[Received June 14—10:48 a. m.]

223. Referring to my telegram No. 221, June 13, 6 p.m.⁵⁶ The following has been received from the consul general, Canton:

"June 13, noon. Referring to my telegram of June 12, 2 p. m. Yunnanese completely routed and all in city surrendered to the Cantonese about 3 p. m., June 12th. All Americans and property reported safe but I have not yet had direct communications with the outlying missions. When the Cantonese generals entered the city they were accompanied by Russian military advisers who directed fight and to whom Cantonese victory undoubtedly due.

There was some looting and beating and killing of stray Yunnanese last night but no serious disorders.

According to the semiofficial *Canton Gazette* seamen's strike will begin in Canton and Hongkong June 15th in sympathy with the Shanghai students. This will undoubtedly become serious general strike if the Shanghai affair is not settled soon."

MAYER

⁵⁶ Not printed.

893.00/6264 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 15, 1925—10 a. m.

[Received June 15—5:37 a.m.]

227. Referring to my telegram No. 223, June 14, 1 p. m. The following telegram has been received from the consul general at Canton:

"June 14, 1 p. m. Referring to my telegram of June 11 [13?], noon. Hundreds of Yunnanese and other Chinese not speaking Cantonese dialect have been hunted out and beaten to death by the civilian populace while the victorious Cantonese army did little or nothing to prevent it. However, police department is beginning to function and it now seems likely that order will be restored shortly.

Antiforeign agitation continues and there is considerable uneasiness in Canton and other cities. During student demonstration in Wuchow on the 8th mob yelled 'kill foreigners' and threw stones at American Baptist Hospital.

Local situation seems to be dominated by Whampoa military school cadets to whom complete destruction of Yunnan army is due. However, it appears Ng Bong Ping and other conservatively inclined Cantonese leaders will have a share in the new government.

I am continuing my policy of urging Americans especially women and children to leave for Hongkong and other safe places."

MAYER

893.00/6420 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 22, 1925—noon.

[Received July 22—6:15 a. m.]

284. Following from Canton:

Central executive committee of Kuomintang has issued call for preliminary people's conference to be held in Peking after August 1st to cancel unequal treaties. It has also addressed to the Acting President, Tuan, open letter pardoning his past unfriendly actions and urging him to accept Kuomintang's advice instead of that of Chang Tso-lin.

MACMURRAY

893.00/6545 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 24, 1925—6 p. m.

[Received August 24—10:30 a. m.]

347. Following is substance of two telegrams received from Canton:

"Liao Chung-hoi, head of the local radical movement and former civil divisions, was assassinated August 20th. Three Chinese took part, one being killed and two escaping. Their names are not yet known nor is it clear to what faction they belong. Members of administration are accusing British of having instigated the plot but many Chinese say that dissatisfied strikers or agents of opposition military leaders were responsible. Impossible to foresee effect of Liao's death on the situation in Canton but he was the foremost leader of the radicals who are undoubtedly badly shaken.]"

MACMURRAY

893.00/6551 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 27, 1925—3 p. m.

[Received August 27—7:22 a. m.]

355. My 347, August 24, 6 p. m. Following from Canton:

"August 25, 6 p. m. Whampoa Cadets occupied Canton today and have already arrested over one hundred government officials supposed to have been implicated in the assassination of Liao Chung-hoi, including brother of Hu Han-min, the Commissioner of Foreign Affairs, and formerly acting generalissimo. Whampoa Cadets are carrying out house-to-house search and hold strategic points. They have also brought in artillery, and fighting is predicted tonight. They may attack General Li Fok-lam on Honan Island.

"This is evidently the beginning of the long-expected clash between Pinks and Reds and the Reds have moved first under their Russian advisers. They will have probably the advantage at least in the initial stages of the conflict, but many of the Cantonese leaders are opposed to Russian Communists. Department is not informed."

MACMURRAY

893.00/6569 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 30, 1925—6 p. m.

[Received August 30—10:55 a. m.]

365. Following are extracts from telegram received from Canton:

"August 27, 6 p.m. City in complete control Whampoa Cadets and civil administration badly disorganized. There was occasional firing Tuesday night and yesterday but conditions now fairly quiet. Hsu Chung-chi, leading Cantonese general, is supporting Reds but his allegiance is doubtful. Bolshevik Russians seem to be very nervous but there is no indication of further fighting unless Cantonese troops in the outlying districts attack.

The Government now consists of provisional commission of three including General Hsu Chung-chi, Wang Shao-ning and General Chiang, commander of the Whampoa Cadets."

MACMURRAY

893.00/6570 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 31, 1925—6 p. m.

[Received August 31—9:40 a. m.]

369. Referring to my telegram number 365, August 30, 6 p. m. Following from American consul general at Canton:

"August 28, 4 p. m. According to fairly reliable reports, strike committee has decided to cancel strike and boycott with respect to all foreigners excepting British and Shameen residents. Needless to say I shall not consent to many Americans returning unless the attitude of the new Red regime is fairly satisfactory.

I am reliably informed Hu Han-min surrendered to Whampoa cadet headquarters and is at Whampoa fort under surveillance. He is no longer a member of the Government. The city seems quiet and no more fighting is expected unless Cantonese troops in the Province combine to attack."

MACMURRAY

893.00/6572 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 4, 1925—6 p. m.

[Received September 4—8:57 a. m.]

382. Referring to my telegram number 369, August 31, 6 p. m. Following from American consul general at Canton:

"September 1, 4 p. m. Referring to my telegram of August 28, 4 p. m. General strike committee unable as yet to agree to confine strike and boycott to the British only. On the contrary, indications in some quarters show strike actually tightening against Americans including our gunboats."

MACMURRAY

893.00/6617 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 25, 1925—11 a. m.

[Received September 25—3:26 a. m.]

416. Following from American consul general at Canton:

"September 21, 4 p. m. General Hsu Chung-chi has been relieved of his command and left hurriedly during the night on a vessel bound for Shanghai. His bodyguard was disarmed by order of the commander of the Whampoa Cadets. It is reported that General Hsu's principal military assistant with the Cantonese army near Sheklung has revolted and will join Chen Chiung-ming's forces in eastern Kwangtung.

The so-called diplomatic committee has left for Shanghai.

Line between the Reds and Moderates now becoming clearly defined. There are indications that the opposition in outlying districts is crystallizing against the Reds."

MACMURRAY

893.00/6648 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, October 7, 1925—5 p. m.

[Received October 7—8:30 a. m.]

428. Following telegram repeated from Canton:

"October 2, 3 p. m. Commissioner of Foreign Affairs states that Canton army is mobilizing. Heavy detachments of troops are being sent to east front to check Chen Chiung-ming advance. Fighting reported southeast of Waichow and East River points. Wounded arriving Canton daily."

MACMURRAY

893.00/6679 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, October 16, 1925—7 p. m.

[Received October 16—2:20 p. m.]

447. Following from Canton:

"October 15, 3 p. m. Referring to my telegram of October 14, noon. Local government has notified consular body that state of emergency has been declared in the Boca-Tigris fort area, that adjacent waters have been mined and that all vessels including men-of-war must notify commander of the fort and receive pilots to conduct them through the danger zone. Authorities also desire to be informed in advance through the consul general of expected arrival or departure of vessels.

Although the note does not say so, British authorities tell me Chinese are insisting on boarding merchant ships and asking questions as to the nature of the cargo, number of Chinese passengers, ownership of vessel, etc.

Above action said to be due to the presence of two northern cruisers in South China waters.

In my reply to note I suggest calling attention to correspondence referred to in Legation circular 215 of March 17, 1924, concerning freedom of action of our men-of-war. Also suggest pointing out that in view of the well-known attitude of our Government I shall expect American vessels to be supplied with pilots and conducted safely through the mine field with the least possible delay or annoyance. If necessary I will also protest against boarding except by customs officers. War has not been declared but as it actually exists I am uncertain whether I should protest against placing of mines which may break loose and ultimately become grave danger to our ships. I shall definitely decline to give any advance notice of movement of our ships which is generally impracticable."

Legation's circular instruction number 215 embodied substance of the Department's instruction number 556 of January 29th, 1924.⁵⁷ I request authorization to approve Jenkins' recommendations including protest against mines.

MACMURRAY

893.00/6691: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, October 24, 1925—noon.

[Received October 24—7:42 a. m.]

463. Following received from Canton:

"Oct. 20, 4 p. m. Local government announces capture of Waichow by the Whampoa Cadets, but rumors persist city has been retaken by Chen Chiung-ming forces. Fighting in eastern Kwangtung unusually severe, local authorities admitting heavy losses in killed and wounded. Several hundred wounded have arrived in Canton."

MACMURRAY

893.00/6679: Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, October 29, 1925—6 p. m.

308. Your 447, October 16, 7 P. M. You are authorized to instruct Consulate General Canton in manner suggested in your telegram.

KELLOGG

⁵⁷ For Department's instruction, see *Foreign Relations*, 1923, vol. I, p. 740.

893.00/6733 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 6, 1925—4 p. m.

[Received November 6—7:56 a. m.]

477. Following is excerpt from telegram dated November 4, noon, received from Swatow:

"Chen Chiung-ming forces retired from Swatow, October [November?] 2. All officials left yesterday. Cantonese troops expected to arrive at any time; Cantonese flags have been raised and the city may be regarded as in possession of Cantonese. No disorder, American destroyer here."

MACMURRAY

893.00/6744 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 9, 1925—1 p. m.

[Received November 9—5:45 a. m.]

478. My 477, November 6, 4 p. m. Following from Swatow:

"November 7, 12 noon. Chiang Kai-shek arrived yesterday with several thousand troops, quiet."

MACMURRAY

893.51/4861 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 23, 1925—10 a. m.

[Received November 23—1:01 a. m.]

493. American consul, Swatow, states that it is reported Canton Government contemplates taking over Maritime Customs, Swatow. He asks whether action similar to that of the consul general, Canton, on the same question in 1923 should be taken.⁵⁸ Please instruct.

MACMURRAY

893.51/4861 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, November 23, 1925—9 p. m.

321. Your number 493, November 23, 10 a. m. In my opinion the powers ought to limit their efforts to prevent disintegration of Cus-

⁵⁸ See *Foreign Relations*, 1923, vol. I, pp. 551 ff.

toms Administration to making formal representations to Chinese authorities. I do not object to your cooperation with your colleagues in making representations to Chinese Government, or to your instructing consul, Swatow, to protest if such action as he fears is taken. I question whether it is advisable or practicable at this time to conduct such an international naval demonstration as was carried out at Canton in 1923.

KELLOGG

INTENSIFICATION OF ANTIFOREIGN FEELING IN CANTON AFTER THE FIRING AT SHAMEEN

893.00/6292 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 19, 1925—5 p. m.

[Received June 19—8:50 a. m.]

236. Following from consul general at Canton:

"June 18, 1 p. m. General strike against foreigners imminent. I am warning American women and children to leave and the men who remain to be prepared for immediate departure in event of danger."

MAYER

893.00/6299 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 22, 1925—4 p. m.

[Received June 22—8:50 a. m.]

239. My 236, June 19, 8 [5] p. m. Following from consul general at Canton:

"June 21, 11 a. m. General strike and boycott against the British, Japanese and Americans has been announced and house and office employees are leaving this morning. About two-thirds American women and children have gone to Hongkong and other safer places. American senior naval officer and myself deemed it advisable to urge their departure because of extreme difficulty protecting large missionary communities in the suburbs in the event of disorders. One Japanese shot and robbed in the native city. This may have no political influence but many Japanese have entered Shameen for safety. Violent propaganda continues directed especially against the British."

MAYER

893.00/6303 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 23, 1925—5 p. m.

[Received June 23—11 a. m.]

243. My 239, June 22, 4 p. m. Following from consul general at Canton:

"June 22, 4 p. m. Referring to my telegram of June 21, 11 a. m. I am reliably informed Governor issuing order today to troops and police to protect foreign lives and property, and C. C. Wu⁵⁹ has told senior consul foreigners will be protected. These belated assurances seem to indicate local authorities are beginning to realize their responsibility and will exercise some measure of control over parades and demonstrations announced for tomorrow. If there are no acts of violence tomorrow indications are that general situation will begin to improve.

Confidentially I am informed that Kuomintang has decided to exempt Americans from the boycott which will be directed against the British and Japanese.

Strike applies to all firms and residents in Shameen including consulate general and also Canton-Hongkong river steamers which will be completely tied up tomorrow.

British Navy tug will bring the mails and food supplies daily. Servants and employees of Americans in the city and suburbs continue to work."

MAYER

893.00/6314 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

SHAMEEN, June 24, 1925—noon.

[Received June 25—8:45 a. m.]

While the demonstration of students, laborers and soldiers was passing by Shameen about 3 o'clock yesterday afternoon heavy rifle and machine-gun firing started between Chinese soldiers and British and French sailors lasting 20 minutes with sniping for an hour afterwards. One French civilian was killed and several other Europeans wounded. No Americans hurt, Chinese dead unknown but estimated at nearly a hundred.

There was no shooting last night but the situation is exceedingly tense and fight may be resumed at any moment. As no request for assistance has come from the British and French Concessions, American Navy force merely standing by.

It is estimated that 200 European and American refugees left for Hongkong this morning by special steamer. Japanese women and

⁵⁹ Secretary for Foreign Affairs in the Canton Government.

children have taken refuge on the Japanese destroyer. The few Americans remaining in missions near Canton believed to be safe.

Overwhelming foreign evidence that the Chinese soldiers fired first.

U. S. S. *Helena* expected to arrive this afternoon from Hongkong. Consular code and seals transferred to U. S. S. *Asheville* for safe-keeping. Legation is informed.

JENKINS

898.00/6464

The Consul General at Canton (Jenkins) to the Secretary of State

No. 336

CANTON, June 26, 1925.

[Received August 1.]

SIR: I have the honor to refer to my telegram of June 24, 12 o'clock noon, to the Department and to the Legation concerning the brief but sharp firing that occurred on the afternoon of June 23rd between Chinese troops on one side and British and French bluejackets on the other.

Revised figures show that forty-three Chinese were killed and about seventy wounded, including soldiers, students, and several women. On the British-French side the casualties were one killed (a French merchant) and five wounded including the Commissioner of the Chinese Maritime Customs, Mr. Edwards, as well as a Japanese merchant and several British bluejackets.

As the Department will recall from my telegrams to the Legation the Chinese announced a demonstration against "unequal treaties", foreign concessions, et cetera, for June 23. It was known that this demonstration would pass partly around Shameen, and that it would probably consist of soldiers as well as students and laborers. For these reasons the British and French authorities, as well as other foreigners residing in the Shameen concessions, naturally became apprehensive for their safety. It was realized that the Chinese were greatly excited because of anti-foreign propaganda and that the procession might easily develop into a mob and attack Shameen. Warnings were addressed to the local authorities by the British and French consuls urging that the procession not be permitted to pass near Shameen and that the Chinese Government take every possible precaution to prevent an outbreak.

This Consulate General also addressed a communication to the authorities calling attention to anti-foreign propaganda and asking for an assurance that American lives and property would be protected. No reply was received by this office from the Civil Governor, but on the afternoon of June 22 a personal letter came from the Chief

of Police to the effect that he was doing everything he could to prevent an outbreak and did not think there would be any disorders.

Mr. C. C. Wu, I am informed, gave verbal assurances to the British Consul General that order would be maintained, but as the British and French consuls did not feel that the local authorities could be relied upon to protect the foreign concessions steps were taken for defence in the event of trouble. Barricades were constructed on the back bund facing the native city and machine guns were placed at strategic points. The volunteer corps was also called upon to stand by.

The procession appeared about 2:30 p. m. It was orderly and at first consisted only of students, Boy Scouts, laborers, et cetera. For about half an hour it continued to pass Shameen and as there was no sign of trouble onlookers began to breathe with more ease, feeling that the danger of an outbreak was over.

It was then observed, however, that soldiers were bringing up the rear of the procession and that they were armed. These troops consisted of Whampoa Cadets and ordinary Cantonese contingents. No actual count could be made but it is estimated there were more than a thousand men in line.

Just as the first of the troops reached a point in front of the Victoria Hotel near the British bridge the procession stopped, probably because of some congestion ahead. The troops began to show signs of nervousness and the students and civilians nearby seemed to increase their yelling and waving. Suddenly the soldiers were seen to break their formation and a shot rang out. This was followed by several more in rapid succession, and then a perfect din of rifles and machine guns began.

It is impossible to say from which side the first shot was fired. The British and other foreigners are practically unanimous in declaring that a Chinese fired first, but the Chinese assert that the shot came from Shameen. At any rate the firing spread rapidly along the bund and the French were hotly engaged almost immediately after the British. Heavy firing lasted about fifteen minutes, bullets smashing into houses facing the canal and striking the trees and roofs of buildings all over the two concessions. The mystery is that more Europeans were not killed or wounded.

A large motorboat from the U. S. S. *Asheville* happened to be lying off the front bund when the shooting commenced and it was soon filled with refugees who were taken out to the ship. A wounded Japanese civilian was also picked up and carried over to a Japanese destroyer lying off the concessions. Other refugees kept crowding on the front bund and soon the boats from the warships were busy transferring people to the river steamer *Honam* which had been anchored nearby with this very purpose in view.

The *Honam* sailed early the next morning with several hundred refugees for Hongkong. In the afternoon another steamer left with many women and children so that all who wanted to leave were able to get away. The Chinese section of the *Honam's* crew had struck and a detail of twelve men from the U. S. S. *Asheville* assisted the European officers on the run down to Hongkong. All American and British women have left Shameen and so have most of those of other nationalities although a few French and Japanese women and children still remain. A few American women and children continue to live in the missions in the suburbs but these are being urged to go.

As can well be imagined the shooting has produced much bitterness and excitement amongst the Chinese who suffered such unexpectedly great losses. There does not seem to be so much feeling against the French although a large proportion of the casualties were evidently inflicted by French machine guns. The British are blamed for starting the shooting. The Japanese had no part in the Canton affair but they are blamed for their part in the Shanghai troubles. The boycott is directed against the British, French, and Japanese but not against the Americans.

From their side the English insist that the first shots came from the Chinese and that the British officers did everything in their power to stop the firing as soon as possible. They regret the large number of casualties and especially the killing of students, but point out that the concessions were being attacked by fully armed Chinese soldiers who far outnumbered the European defenders. The students were near the soldiers and probably came under an indirect fire.

It is estimated by the French that fully a thousand armed Chinese troops were facing Shameen at the moment the shooting commenced. In addition more troops were seen extended down the native bund.

The people on Shameen were afraid that there would be trouble while the parade was passing and the Consuls and naval authorities concerned took every possible precaution to prevent an outbreak, and at the same time safeguard the concessions. Everyone deplors the affair which can only serve to increase the difficulties of an already complicated and dangerous situation.

No foreigners have gone into the native city since the shooting and it will probably be a long time before they will find it safe to move about freely, except Germans and Russians who will probably wear arm bands indicating their nationality. In the suburbs conditions are easier for the Chinese are more or less personally acquainted with the foreigners they see there. Business is at a standstill.

No steps have been taken as yet to open negotiations for a settlement and it will probably be some days before anything can be done. Every effort is now being directed toward the prevention of another

outbreak which could easily develop into something far more serious than the affair of June 23.

As this is being written the French and British are busily engaged in strengthening the defenses of the two concessions. More barricades are being erected and the system of communication improved. There are rumors that troops are massed in the city behind Shameen and that another demonstration may be expected shortly. The more responsible leaders are doing their best to calm the people but the students, who are evidently under Russian Soviet influence, are insisting that the Chinese dead must be avenged.

No one knows what is going to happen. Each day brings a new crop of rumors, some of which seem reasonable while others are mere nonsense. Shameen is an armed fort to all intents and purposes and it is no exaggeration to say that a state of war exists although there is no active warfare at the moment. The strike is complete on the island and shipping is almost paralyzed, only a few Chinese owned steamers being in operation. The question is, how long is it going to last? Things may go on as they are for weeks and even months. The Chinese are almost if not quite as much inconvenienced as are the foreigners for there is practically no communication with the outside world and food supplies will soon be running low.

The Canton affair may and will be adjusted after a fashion, but it is evident there can be no real stability and friendliness in China's relations with foreigners until some plan is found and put into effect for the readjustment of China's status with the Powers.

I have [etc.]

DOUGLAS JENKINS

893.00/6319 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

HONGKONG, June 26, 1925—11 a. m.

[Received June 27—1:50 a. m.]

Referring to my telegram of June 24, noon. There has been no more firing but the British report that Chinese forces massed in the city behind Shameen. Situation continues extremely tense and renewed outbreak may occur at any time, as the Chinese forces directed by Russians have some artillery and an aeroplane situation could become grave. On the other hand Governor and civil authorities assure me Chinese have no intention resorting to force. They declare also Chinese had no intention provoking incident and bitterly resent what they claim to be an unprovoked attack by the British. Each side accuses the other side of firing the first shot and no overtures for a peaceable settlement yet possible. Chinese asked me to

sit on an international commission of inquiry and I signified my willingness to accept but so far no organization perfected.

About fifty Americans mostly men still remain in and near Canton whom I advise to leave if they can.

Demonstrations in outlying districts reported but so far no serious assaults on foreigners.

If the commission of inquiry is duly organized am I authorized to participate?

Legation is informed.

JENKINS

893.00/6328 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

HONGKONG, June 28, 1925—9 a. m.

[Received June 28—7:34 a. m.]

Referring to my telegram June 26, 11 a. m. Local Government has addressed notes to the British consul general and French consul demanding retrocession of Shameen, apology, remuneration to the families of killed, punishment of officials responsible for shooting and withdrawal of warships.

No change in the situation generally. Members of the Government urging students and other organizations not to renew demonstration and to protect foreigners but the radicals insisting upon action of some sort. No demonstration today but one is expected June 29th.

General friendliness to America which is officially [excepted] from the boycott but no foreigners safe in the city. Conditions better in the suburbs. Soviet Russians very active in efforts to turn affairs to their advantage. Absolutely no export and import business. *Pampanga* still at Wuchow. *Helena* and *Asheville* at Canton.

Legation is informed.

JENKINS

893.00/6349 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

HONGKONG, June 28, 1925—7 p. m.

[Received June 29—11:16 p. m.]

Referring to my telegram of June 28, 9 a. m. From what I can gather Chinese as well as British and French would be willing to refer Canton affair to an international commission for settlement provided commission is composed of representatives from disinterested powers. It is becoming increasingly evident that this deplorable

affair may drag on indefinitely or become even more acute if our Government or some other so-called neutral does not make an effort to start peace negotiations. I would respectfully urge therefore that the Department approach the British Government and the French Government with the suggestion that an international commission be created and that the Canton affair be dealt with separately from Peking because I am convinced Cantonese will never accept any terms made in Peking.

General situation unchanged. Party of American missionaries arriving from the interior threatened by railway workmen but the police intervened. All Americans safe so far. Legation is informed.

JENKINS

893.00/6319 : Telegram

The Secretary of State to the Consul General at Canton (Jenkins)

WASHINGTON, July 1, 1925—6 p. m.

Your June 26, 11 a. m. You should tactfully decline to sit on proposed commission of inquiry unless officially requested to do so by the British and French Consuls General and unless common foreign interests would be furthered by your participation in which case you should telegraph your views stating also the composition and defined objects of the commission and await further instructions.

KELLOGG

893.00/6354 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, July 3, 1925—11 a. m.

[Received July 3—5:40 a. m.]

260. Referring to my telegram number 246 [243], June 23, 5 p. m., and subsequent telegrams from Canton. Following from consul general at Canton:

"July 1, 3 p. m. Demonstration announced for yesterday postponed. Commission form of Government inaugurated today with a committee as the executive instead of civil governor. Probably this will not affect the local situation because the personnel is the same practically as before.

Nothing is being said at present in regard to international commission of investigation. At any rate I do not believe I could properly serve. Representatives should not be local people."

MAYER

893.00/6509

The Consul General at Canton (Jenkins) to the Secretary of State

No. 340

CANTON, July 8, 1925.

[Received August 14.]

SIR: I have the honor to call the Department's attention to the fact that when the possibility of an attack on Shameen seemed imminent, the Municipal Counsel [*sic*] called for volunteers to serve in the Militia or Police Forces on the Island. This has frequently been done in the past, as the Department is doubtless aware, and when the Americans showed a disposition to offer their services in this instance I saw no reason to interpose any objections.

When the shooting occurred on June 23 a number of Americans were actually posted along with British, Danish, and other nationals at strategic points. The Americans continued to serve for two days but when they found that the British and French authorities did not intend to ask for the assistance of the American Naval forces in the Harbor, the American volunteers declined to bear arms any further and withdrew.

This action on the part of the Americans caused some criticism at first, but the British Consul General explained the matter to his nationals and the incident may now be considered closed. However, I am encouraging Americans to lend their assistance in keeping up the essential public services of a nonmilitary character, for it seems only proper that we should bear our share of the burden so long as the strike continues. A detail of American marines is assisting in the operation of the cold storage plant, but no American armed forces have been landed on the concession up to this time.

The Department understands, I presume, that the British and French authorities on Shameen have consistently opposed the landing of American or other armed forces unless their assistance was deemed absolutely necessary, and so far as I know American Naval commanders have respected the British and French attitude.

I have [etc.]

DOUGLAS JENKINS

893.00/6460 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 31, 1925—11 a. m.

[Received July 31—6:30 a. m.]

301. Referring to my telegram number 284, July 22, noon.⁶⁰ Following from Canton:

⁶⁰ *Ante*, p. 743.

"July 27, 2 p. m. Referring to my telegram[s] of July 22, 1 p. m., July 30, 1 a. m. Steamers now stopped by strike and foreign community here entirely dependent for transportation and mails on a merchant vessel taken over by the British Navy. General situation seems to be less strained but there are no indications whatever of a settlement locally. On the contrary British still continue strengthening Shameen defenses so that island has become fortified camp as I have reported previously. According to a statement in Hongkong newspapers the British recently seized Norwegian vessel laden with a large cargo of rice for Canton from a foreign port. British consul general says, more or less seriously, present situation may continue until Christmas with Shameen entirely closed against Chinese and suspicious foreigners. Strike of postal employees still continues."

"July 28, 4 p. m. It is rumored radicals will attempt to seize local government August 1st. Five deaths from enteric fever have occurred in French Concession during July. Because of unreliable communication at present I suggest Legation's telegrams to me be sent to consul general at Hongkong to be forwarded by post or if urgent by radio.[""]

MACMURRAY

893.00/6507 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, August 14, 1925—4 p. m.

[Received August 14—2:40 p. m.]

329. 1. The consul general at Canton, believing that an attack on the French and British Concessions at Shameen by the Canton military forces is possible, asks whether it would be advisable for the United States naval forces to unite with the French and British forces in the defense of the island if so requested by the authorities of either Government, or whether it would be preferable to limit their activities to aid in removing noncombatants from danger zone and to safeguarding the property and the lives of Americans.

2. While I do not believe in the likelihood of an attack of this sort, it seems to me that it is none the less so obviously possible that the duty lies upon us of deciding beforehand and authoritatively on the policy to be followed in such an event, in order that the consul general and the senior naval officer of the American cruiser should not have to make a decision without warning and in grave danger of extensive loss of life and of property, on their own responsibility. This sort of a decision as to the policy to be pursued seems the more advisable at present because of the large number of other places in all parts of China where a situation of like nature might well occur at any moment as a consequence of local unrest.

3. A distinction should be noted between the situation under consideration and that at Shanghai where we take part in and share the responsibility for the administration and protection of the foreign International Settlement. Insofar, however, as concerns Shameen the French and British authorities have insisted on their own sole responsibility.

4. It seems evident that our participation should not be warranted merely for the protection of a French or a British concession. If we could in fact isolate this question from other considerations, no doubt it might be possible that it would be preferable for us to avoid involving ourselves in any sort of dispute to support anything like a territorial claim for any other nation.

5. It appears, however, practically impossible to separate this problem from larger considerations which would be brought into action in any case of this sort if the American forces were either to remain inactive or to retire in the course of an attack possibly directed ostensibly and at first against the British or any other nationality, but, when thoroughly analyzed found to spring from motives in which we and other nations would be implicated to only a lesser degree. Such action would be particularly lacking in courtesy in cases where the lives and property of Americans were in danger of attack. In a case of that sort it would in fact be practically impossible to give adequate protection to American nationals without taking our part in a united plan for defense.

6. Further than the obvious precaution of withholding our naval forces from foreign concessions in which the interests of Americans are not implicated, I acknowledge that no way presents itself by which we can differentiate our own interests from those of other nations, so as to avoid our possible implication as participants in defending any foreign concession where American nationals may have become established. We have considered the possibility of a withdrawal of Americans at any time when an attack threatened, but aside from the regrettable effect that this would have on the feeling of the foreigners and on the possibility of cooperation with other foreign nations whose interests in China are in substance of the same nature as our own, I cannot help thinking that such a withdrawal at a moment of crisis would in itself have a tendency toward encouraging and bringing about separating hostile action on the part of the Chinese, which would finally involve us, beyond doubt, no less than it would the nation first attacked. Though, for the time being, the agitation against the position of foreigners in China is concentrated principally against Japanese and British, it should be remembered that such a distinction is, in great measure, a matter of tactics on the part of the leaders in the agitation; and we should also not forget that to those inspiring the attack its purpose would be perhaps not

directly but none the less actually in opposition to American interests and will be a benefit to China. It is especially the case in Canton, which is in great measure under Soviet influence at present, that the motivating force is antagonistic to the "imperialistic and capitalistic" powers and opposed to the entire political and economic system of which the United States forms as large a part as does Great Britain.

7. Hence I am unable to avoid the conclusion that in Canton and other treaty ports where a crisis of like nature might occur, it would be preferable for the United States naval forces to remain in order to protect American citizens and their interests and, with that in view, it would be advisable for them to be authorized to unite in such defense measures as the commander in his discretion may deem necessary to accomplish that end after mediation appears no longer possible.

8. The commander of the South China Patrol has presented this same question of policy to the commander in chief and I am sending him a copy of this telegram.

9. I should appreciate an early reply as to the Government's policy in this matter.

MACMURRAY

893.00/6507 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, August 15, 1925—1 p. m.

202. Your 329 August 14, 4 p. m. The Department approved policy stated in paragraph 7 of your telegram. It should be understood, however, that there should be no unnecessary risk of life in the protection of property and American forces should not participate in defence of Shameen at Canton unless specifically requested so to do by the naval authorities of countries concerned. Ordinarily this government's policy would be to evacuate its citizens to a place of safety and look to Chinese Government for protection of their property, and this policy should guide American naval authorities should British or French request contemplate a different policy in regard to the property of their nationals. See Department's No. 214 of September 8, 1924, 5 p. m.⁶¹

Above communicated to Navy.

KELLOGG

⁶¹ *Foreign Relations*, 1924, vol. I, p. 371.

393.11/388

*The Consul General at Canton (Jenkins) to the Minister in China
(MacMurray)*⁶²

[Extract]

No. 304

CANTON, October 16, 1925.

SIR: I have the honor to inform the Legation that a large number of Americans have returned to the Canton consular district during the past two weeks, including many women and children. Most of the American missionary institutions at Canton have reopened and the attendance averages between seventy-five and ninety percent. of normal.

The general attitude toward Americans has shown considerable improvement during the past month but conditions are still so unsettled that I have not deemed it proper for me actually to advise American women and children to return. I have let it be understood however that I did not consider the situation unduly dangerous and that if Americans wished to come back to their homes they could do so but at their own risk.

I have [etc.]

DOUGLAS JENKINS

**ADHERENCE OF CERTAIN POWERS TO TREATIES CONCERNING CHINA
SIGNED AT WASHINGTON, FEBRUARY 6, 1922**

500. A 4e/274a : Circular telegram

*The Secretary of State to the Ambassador in Spain (Moore)*⁶³

WASHINGTON, August 6, 1925—11 a. m.

Please hand following to Minister for Foreign Affairs:

"EXCELLENCY. By a note dated May 18, 1922, addressed to His Excellency the Minister for Foreign Affairs of Spain,⁶⁴ my predecessor in the office of Secretary of State of the United States of America, in pursuance of Article 8 of the Treaty relating to the revision of the Chinese Customs Tariff and cognate matters, signed at Washington on February 6, 1922,⁶⁵ extended to the Government of Spain on behalf of the Government of the United States, acting for all the Governments, a cordial invitation to adhere to the said Treaty upon its ratification by all the signatory Governments.

The Treaty has now been ratified on all parts and has gone into effect by the deposit with the Government of the United States on

⁶² Copy received by the Department on December 4.

⁶³ The same, *mutatis mutandis*, to the American diplomatic representatives in Denmark, Norway, and Sweden.

⁶⁴ Not printed.

⁶⁵ *Foreign Relations*, 1922, vol. 1, p. 282.

August 5, 1925, of the ratifications of all the signatory Governments. I have the honor, therefore, on behalf of the Government of the United States, acting for all signatory Governments, to renew through Your Excellency to the Government of Spain the cordial invitation of my predecessor to adhere to the Treaty, and to express the very great pleasure with which the Government of the United States would learn that such adherence had become effective by the receipt of notice thereof as provided in Article 8 of the Treaty. Accept, Excellency, the assurances of my highest and most distinguished consideration. Frank B. Kellogg, Secretary of State of the United States of America."

KELLOGG

[The following powers notified the American Government of their adherence to the treaty relating to the revision of the Chinese customs tariff, signed at Washington February 6, 1922: Denmark, August 27, 1925; Sweden, September 11, 1925; Spain, September 21, 1925; and Norway, September 23, 1925.]

500. A 4d/88a

*The Secretary of State to the Ambassador in Spain (Moore)*⁶⁶

[No.] 288

WASHINGTON, October 1, 1925.

SIR: I transmit herewith a communication addressed to the Minister for Foreign Affairs of Spain⁶⁷ inviting the adherence of the Government of Spain to the Convention between the United States, Belgium, the British Empire, China, France, Italy, Japan, the Netherlands and Portugal, relating to principles and policies to be followed in matters concerning China, signed at Washington on February 6, 1922.⁶⁸

You will please hand the communication with its accompanying certified copy of the treaty to the Minister for Foreign Affairs.

I am [etc.]

For the Secretary of State:

JOSEPH C. GREW

[The following powers notified the American Government of their adherence to the treaty regarding principles and policies to be followed in matters concerning China, signed at Washington February

⁶⁶ The same, *mutatis mutandis*, on Oct. 1, 1925, to the American diplomatic representatives in Austria, Bolivia, Chile, Denmark, Germany, Norway, Persia, Peru, Sweden, and Switzerland; on Nov. 21, 1925, to the Ambassador in Brazil; and on Apr. 23, 1926, to the Ambassador in Mexico.

⁶⁷ Not printed.

⁶⁸ *Foreign Relations*, 1922, vol. I, p. 276.

6, 1922: Norway, November 16, 1925; Bolivia, November 21, 1925; Sweden, December 5, 1925; Denmark, December 29, 1925; and Mexico, January 14, 1927. Later correspondence with the Government of Mexico disclosed that the adherence of Mexico as of the above date was premature and that the date of effective adherence was September 29, 1927.]

**REQUEST FROM THE CHINESE GOVERNMENT TO THE WASHINGTON
CONFERENCE POWERS FOR A READJUSTMENT OF TREATY
RELATIONS**

798.00/46 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 24, 1925—6 p. m.

[Received 10 p. m.]

247. 1. Representative of Foreign Office has just handed me copy of the following identic note addressed to the representatives of Washington Conference powers.

"With the object of further consolidating the friendly relations between China and the foreign powers, I have the honor to address you on a subject which is essential to the promotion of that happy mutual understanding and good will upon which international friendship result [*rests*]. During recent years there has been a steadily growing feeling shared even by many foreign statesmen that, in justice to China as well as in the interest of all the parties concerned, there should be a readjustment of China's treaty relations with foreign powers to bring them more in line [with] the generally accepted conceptions [of] international justice and equity and more in conformity with existing conditions in China.

It may be recalled that many of these treaties were not only concluded [a] long time ago but were negotiated under circumstances which hardly permitted the formulation, by full and free discussion, of the principles which should permanently regulate the normal intercourse between China and the foreign powers. But while designed in the first instance largely to meet the exigencies of a particular time these treaties have been allowed to remain in force to the present time when, the situation having been greatly changed, the further indefinite continuance of the extraordinary political and economic privileges and immunities therein conferred upon the foreigners seems to be hardly warranted by circumstances. Moreover on account of restrictions imposed by these treaties there are mutual inconveniences and disadvantages which affect matters concerning China and the foreign powers. So long as these inequalities and extraordinary privileges continue to exist there would always remain causes of disaffection which are apt to produce friction and disturb the cordial relations and good understanding between China

and the foreign powers, such as for instance can be seen in the recent deplorable incident which took place in Shanghai.⁶⁹

At the time when China joined the Allied and Associated Powers in a war waged for upholding the sanctity of international law and the vindication of justice, the Chinese Government was encouraged to hope for a definite improvement of her international status and was happily assured by these powers that they would do all that rests with them to ensure that China would enjoy in her international relations the position and regard due to a great country. Great therefore must be [the] disappointment to her people when after the Great War had been won and the common cause achieved, her own international status should remain unimproved and is in some respects even inferior to that of the defeated nations for in [none] of them do we find the existence of extraterritorial courts, foreign concessions, leased territories and an externally imposed conventional tariff.

The Chinese Government has therefore on repeated occasions approached the foreign powers concerned for a readjustment of her treaty relations. Questions of importance for readjustment were submitted by China to the Paris Peace Conference which, while fully recognizing the importance of the questions raised, did not consider that they fall within the province of the Peace Conference. A similar effort was made by the Chinese Minister at the time of the Washington Conference which, though more disposed to consider China's requests, could not agree to effect any fundamental readjustment; so that as far as substantial results are concerned very little has yet been accomplished. More recently in a note brought both [*addressed?*] jointly to the representatives in Peking of the signatory powers to the Washington treaties and agreement, shortly after the assumption of office by the Provisional Chief Executive, the Chinese Government again expressed the hope that the friendly powers would give sympathetic consideration to the well-known aspirations of the Chinese people submitted in recent years to different international conferences by the Chinese Government, so that their relations may be further improved to their mutual advantage. The Chinese Government is firmly convinced that with all nations not only can their relations with China be made more cordial but their rights and interests can be better protected and more effectively advanced without rather than with the enjoyment of extraterritorial privileges and immunities. I have the honor to request you to be good enough to transmit the above to your Government in the confident hope that the Government which you have the honor to represent will be as much convinced as the Chinese Government is that the readjustment of China's treaty relations on an equitable basis in satisfaction of the legitimate national aspirations of the Chinese people would do much to further consolidate her friendly relations with foreign powers and that your Government will also as fully appreciate the mutual advantages that would result from such a course of action and will therefore give an encouraging response to this proposal of the Chinese Government.["]

⁶⁹ See *ante*, pp. 647 ff.

2. Representative from Foreign Office assured me that note's purpose twofold, first, to take action along line of legitimate national aspiration of Chinese, second, confidentially the note was designed to neutralize radical propaganda directed toward immediate cancellation of so-called unequal treaties by evidencing to Chinese people purpose of Chinese Government to initiate action at once toward readjustment of treaty relations with foreign powers in friendly manner consonant with principles of international law.

3. Meeting of Heads of Legation tomorrow at which Chinese note will be discussed. I shall telegraph further thereafter.

MAYER

793.00/48 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, June 26, 1925—4 p. m.

[Received June 26—1:25 p. m.]

249. My 247, June 24, 6 p. m.

1. Representatives of Washington Conference powers are today sending following identic telegram to respective Governments in reference to identic note addressed to them by Chinese Government under date of June 24th. Translation:

"The representatives concerned limited themselves to acknowledging the receipt of the note in question stating that they were transmitting this document to their respective Governments.

They are unanimous in thinking that this note responds especially to the immediate needs of the internal situation.

In the reply to be made they consider that it would be opportune to recall that the Conference for the Revision of the Tariff should assemble in the near future. Likewise the Governments should propose the hastening of the arrival of the Extraterritoriality Commission which alone is capable of studying the question. They should state moreover that the abolition of extraterritoriality must be dependent on equality of rights between Chinese and foreigners. It is understood that the reestablishment of order is an indispensable preliminary.

The representatives concerned request identic instructions."

2. As I expressed myself generally at meeting of representatives of Washington Conference powers I consider that we should take advantage of opportunity afforded by reply to Chinese Government's note aforementioned to record and give publicity to the other side of the shield; that, while reaffirming principles and policies of Washington Conference and reassuring Chinese of our desire to go forward along that line as soon as [may be], we should clearly indicate the practical difficulties involved and the necessity for facing facts rather than fancies in the request which the note presents for a

readjustment of the treaty relations between China and the friendly powers. In my opinion our reply should frankly express the hope that the Chinese Government while demanding additional sovereign rights will commence seriously to realize the sovereign responsibilities which the possession of those rights entails. Furthermore, I believe we should affirm in our reply the duty of the respective Governments concerned toward their citizens and subjects who by mutual assent of the Chinese and the respective Governments have acquired in China commercial, educational, and missionary rights of great value and importance both to the citizens and subjects aforementioned and to the Chinese, the successful pursuit of which, if not their very existence, would in all probability be seriously jeopardized should the Governments concerned accede to the complete implication of the Chinese Government's note of June 24th in this period of chaos and the absence in China of a permanent government able to enforce its mandate throughout the country or even in a considerable portion thereof. We might further with advantage in our reply state that the Governments concerned would be false to their public trust [should they] surrender the privileges and immunities of their citizens and subjects in China at the present time without first assuring themselves of the ability of the Chinese to carry out the burden of normal nationality to which they appear to aspire.

Repeated to Tokyo.

MAYER

793.00/49 : Telegram

The Ambassador in Japan (Bancroft) to the Secretary of State

TOKYO, June 30, 1925—4 p. m.

[Received June 30—11:20 a. m.]

116. Your telegram number 78, June 25, 6 p. m.⁷⁰ I have discussed with MacMurray⁷¹ Peking's 247, June 24, 6 p. m., and 249, June 26, 4 p. m. to the Department. We fully agree with the views set forth by Mayer in the latter telegram. We feel that the Chinese proposal should be neither rebuffed nor received in such a manner as to convey an impression that the powers are yielding under pressure, but that it should be made the occasion of evidencing to the Chinese our willingness to consider sympathetically and helpfully the modification of existing treaty [*treaties?*] for the upholding [of] Chinese sovereignty in measure as the Chinese authorities demonstrate their willingness and ability to fulfill their obligations and to

⁷⁰ Not printed.

⁷¹ John V. A. MacMurray, newly appointed Minister to China, who was en route to his post.

assume the protection of the foreign rights and interests now safeguarded by the exceptional provisions of existing treaties.

It occurs to us only to suggest that reference to the Commission on Extraterritoriality should be so phrased as not to imply that this Commission should meet until the Special Conference⁷² shall have concluded its work. It may be suggested that it would be advisable for our Government, immediately upon ratification of the China treaties by the French Government, to circularize to the signatory and adhering powers the recommendation that the Extraterritoriality Commission should meet within a [specified] period after the conclusion of the work of the Special Conference.

BANCROFT

793.00/46 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, July 1, 1925—noon.

125. Your 247, June 24, 6 p. m. Department feels that the Chinese proposal should be made the occasion of evidencing to the Chinese our willingness to consider sympathetically and helpfully the modification of existing treaties in measure as the Chinese authorities demonstrate their willingness and ability to fulfill their obligations and to assume the protection of the foreign rights and interests now safeguarded by the exceptional provisions of existing treaties.

In discussing with your colleagues the text of the reply which each will make to the identic notes of the Chinese foreign office of June 24 you will take occasion to impress upon them this Government's desire that the powers concerned expedite preparations for the holding of the special conference regarding Chinese customs tariff stating that this Government believes that that Conference should be requested, after accomplishing the work required by the treaty, to make concrete recommendations upon which a program for granting complete tariff autonomy to China may be worked out. You will also make clear to your colleagues this Government's desire that the preparations for the despatch of the commission to investigate the question of extraterritoriality be proceeded with without delay and state that this Government feels that this commission should be requested to include in its report recommendations upon which a program for the gradual relinquishment of extraterritorial rights may be based which may be carried out *pari passu* with steps to be taken by the Chinese Government looking to the adoption of laws and the estab-

⁷² For revision of the Chinese Customs Tariff.

lishment of legal institutions capable of giving legitimate foreign interests the protection now given under the treaties.

Before finally accepting the text of any identic note to be delivered to the Chinese Government you will communicate text to the Department for its approval. Keep Department informed by telegraph of developments as discussion proceeds. Repeat to Shanghai for MacMurray.

KELLOGG

793.00/166

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Johnson)*

On June 30 the Chinese Minister called upon the Secretary by appointment to discuss with him the contents of his note of June 25.⁷³ The Chinese Minister stated, among other things, that he had been advised informally by his Foreign Office, although he had not been authorized to make official representations to this effect, that while that Government had desired greatly that a conference be called to consider the question of treaty revision it was realized that such a conference could not take place at any early date. He stated to the Secretary that this had come to him as a result of a telegraphic inquiry which he had made asking for some explanation of the desires of his Government as set forth in that note. He stated that his Government felt, therefore, that they should not, in striving for the greater end, lose what had already been gained by the treaties signed as the result of the Washington Conference and the resolution calling for the sending of a commission to go into the matter of extraterritoriality.

The Secretary stated that the greater question of general treaty revision involved many difficulties. He said that this Government had from the beginning desired to expedite the holding of the Customs Conference provided for by the Washington Conference treaty and the sending of the commission on extraterritoriality, but that the whole matter of the Customs Conference had been delayed pending action by France on the China treaties, while, as regards the commission on extraterritoriality, after the first postponement at China's request, this Government had been unable to obtain any unanimity on the part of the Powers concerned as regards the fixing of the date for the sending of that commission.

⁷³ Not printed; it is substantially the same as the Foreign Office note quoted in telegram No. 247, June 24, from the Chargé in China, p. 763.

The Chinese Minister asked whether this Government would be willing to urge upon the other interested Powers the hastening of the calling of the conference on tariff matters. The Secretary stated that we would be glad to do this. He said that he was also willing to urge the hastening of the sending of the commission on extra-territoriality. The Chinese Minister stated that he was sure that his Government would receive this information with pleasure. He pointed out, however, that the conference on tariffs, as provided for under the Nine-Power Treaty, did not in fact give to China the fiscal relief that she desired, that what was wanted was complete tariff autonomy. Mr. Johnson suggested that something might be accomplished if the instructions to the conference on tariffs could be amplified to include a request or recommendations upon which a plan for giving complete tariff autonomy might be worked out after the special tasks of the conference had been completed. The Secretary stated that this of course was a matter which would have to be taken under advisement.

The Chinese Minister also stated that the commission on extra-territoriality would be merely asked to make a report, that it did not promise to accomplish anything nor did it bind the Governments to do anything of a concrete nature. Mr. Johnson here suggested that something might be accomplished in this regard also toward meeting the desires of the Chinese, if there could be included in the instructions to the several commissioners a request that they submit with their report recommendations upon which a plan for the gradual relinquishment of extraterritoriality rights might be based. The Secretary stated that this would have to be given consideration.

On July 1 the Chinese Minister again saw the Secretary who at this time stated to him that the Chinese Government's notes would have to be answered by the representatives of the Powers party to the Washington Conference at Peking and he stated that he was instructing the American Legation to urge upon its colleagues at Peking the hastening of the holding of the tariff conference and the early sending of the commission on extraterritoriality. He stated that we had already urged France to hasten action with regard to the treaties. The Secretary did not tell the Chinese Minister that our instructions to Peking recommended the broadening of the powers of the tariff conference or the commission on extraterritoriality to include a request for concrete recommendations leading to an eventual restoration to China of tariff autonomy and the gradual relinquishment of extraterritoriality provisions.

N[ELSON] T. J[OHNSON]

793.00/57

The British Chargé (Chilton) to the Secretary of State

No. 677

MANCHESTER, MASS., July 3, 1925.

[Received July 6.]

SIR: On instructions from His Majesty's Government, I have the honour to draw your attention to the note recently addressed by the Chinese Government to the Corps Diplomatique at Peking—the text of which you will no doubt have received from the United States representative at that capital, as also the suggested reply thereto submitted in the form of an identic telegram to their respective Governments by the heads of the Legations concerned.

2. His Majesty's Government are impressed by the magnitude of the issues raised by this note, which include the question of extra-territoriality in all its aspects and the future attitude of the Powers towards the demands of China in such matters as the revision of treaties, the suppression of mixed courts, the retrocession of leased territories and fiscal autonomy. They have consequently devoted the most careful study to the suggestions contained in the identic telegram and I now have the honour to lay before you their comments thereon to which His Majesty's Representative at Peking has been instructed to conform his action.

3. In the first place, His Majesty's Government are of opinion that the reply to the note of the Chinese Government should make it clear that the Powers are not prepared to discuss particular reforms, much less to review their Treaty relations with China until order has been fully restored and the Chinese Government have given proof of their determination to repress anti-foreign agitations and to enforce respect for the safety of foreign lives and property. Provided that these conditions are emphasized and placed in the fore-front of the reply, His Majesty's Government approve the reference to the meeting of the Tariff Conference as worded in the identic telegram.

4. As regards the question of extra-territoriality, His Majesty's Government are apprehensive lest the Chinese Government interpret a promise to expedite the meeting of the Commission as a sign of weakness on the part of the Powers. In these circumstances, they are disposed to think that the Powers should do no more in their reply than point out that the Commission will be the competent body to examine this question and leave it at that.

5. The above comments, which have also been communicated to the Japanese, French and Belgian Governments, represent the considered views of His Majesty's Government in the matter, and in bringing them to your notice, I have the honour to enquire whether the United States Government concur therein, and if so, whether

they are prepared to send instructions to the United States representative at Peking similar to those which have been already addressed to His Majesty's Representative.

I have [etc.]

H. G. CHILTON

793.00/73 : Telegram

The Chargé in China (Mayer) to the Secretary of State

[Paraphrase]

PEKING, July 5, 1925—1 p. m.

[Received 2:45 p. m.]

263. 1. Mr. Yoshizawa, the Japanese Minister, called upon me and stated that his Government had instructed him to discuss informally with the British Chargé and myself the question of more complete cooperation between the representatives of Great Britain, Japan, and the United States in order to expedite settlement of the Shanghai affair. He said that his Government thought that it would be of great benefit if the three of us could be the force to lead the Heads of Legation to an early settlement of this matter. Yoshizawa added that he had delayed complying with his instructions so that he could consider his own opinion that from a practical standpoint it might be better to include our French and Italian colleagues in any such cooperation. He said that the French Minister had shown himself always willing to cooperate, that the Italian Minister as senior minister was in a practical sense the leader of the Heads of Legation, and that there had been and continued to be excellent cooperation and understanding between the representatives of France, Great Britain, Italy, Japan, and the United States.

2. Yoshizawa had called upon Mr. Palairet, the British Chargé, before calling upon me and had discussed the matter with him. Mr. Palairet had suggested that it might be advisable to include all the Washington Conference powers in any such proposed cooperation as the Japanese Government had suggested.

3. The Japanese Minister asked me to tell him informally what I thought on the subject. I replied that I could only speak for myself since on a matter of this kind I would have to ask my Government for instructions before I could give any answer that he could make to his Government. I added that as the new American Minister was soon to arrive I had some hesitancy even to discuss this matter, implying future action by our Legation. I did, however, informally discuss the subject with Yoshizawa, my special purpose being to sound him out. I told him that from a practical standpoint we believed that the fewer persons who cooperated in a situation the better it was.

I said, however, that I fully appreciated Yoshizawa's idea of the practical utility of having the French and Italian Ministers join in such cooperation as the Japanese Government seemed to contemplate. I expressed the opinion that for the purpose in view the eight Washington Conference powers seemed a rather unwieldy combination. I raised the objection of the national susceptibilities of treaty powers which were not represented in the Washington Conference, experience with regard to which we had had in connection with the joint note of December 9, 1924 from the Washington Conference powers to the Chinese Government.⁷⁴ I questioned whether it would be beneficial to create a block of Washington Conference powers just in order to expedite results in the present situation as such a block would be either too large or not large enough.

4. Yoshizawa and I agreed fully regarding the attitudes of the French and Italian Governments. The former had completely changed since the settlement of the gold franc issue and now seemed anxious to aid China in every proper way. For this reason the French Minister doubtless would generally be in accord with what I consider to be the American, British, and Japanese policy with respect to China, i. e., a sympathetic attitude toward China's aspirations, assistance in that direction by proper revision of treaties as fast as the Chinese show ability to fulfill their responsibilities, and the achievement by China of a stable government without foreign interference. Yoshizawa and I agreed that the Italian attitude toward China differed rather sharply from that stated above. We both feel that the Italian Government seems disposed to make the satisfactory settlement by China of the Italian gold franc case and the payment to Italy of certain former Austrian bonds a condition to a sympathetic attitude toward China generally and specifically to wholehearted support to the early convening of the Tariff Conference. Yoshizawa also pointed out that although two months ago France had promised to ratify the Washington Conference treaties she had not yet done so.

5. The Japanese Minister then came to the point which I think was the reason for his appeal to me. He said that he believed his Government contemplated a larger cooperation between the American, British, and Japanese Governments with respect to China than merely cooperation in the affair at Shanghai. He repeated in several different ways this extended idea of cooperation, which gave me every reason to believe that Japan is making a bid on a definite basis for cooperation in China of these three powers. I told Yoshizawa that I could not express an opinion on this very important conception and

⁷⁴ See telegrams No. 472, Dec. 4, 1924, and No. 478, Dec. 9, from the Chargé in China, and telegram No. 302, Dec. 5, to the Chargé in China, *Foreign Relations*, 1924, vol. 1, pp. 431, 439, and 434.

its many implications but said that I would be glad to comply with his request to report the same for consideration by my Government. At this point I questioned Yoshizawa as to Japan's attitude toward China. After discussion I summarized its attitude as I saw it as follows:

With respect to Manchuria, Japan had taken a position which it believed was vital to Japan's existence as a nation; but as for the rest of China, Japan wishes it to work out its own destiny free from foreign interference so that an authoritative, stable government may be established, and Japan believes that as concerns treaty readjustment and the like the national aspirations of China should receive sympathetic consideration. Yoshizawa was evidently pleased to confirm this summary as being exactly the attitude of the Japanese Government.

6. I call the Department's attention to the statement by Waterlow in the third sentence of the telegram from Perkins at the London Embassy, 195, July 1, 1 p. m.⁷⁵ I received this telegram after my conversation with the Japanese Minister.

7. For a long time I have believed, as previously reported, that considering the situation with respect to Japan and the Soviet Union in Manchuria, the menace in Mongolia from the Soviet Union, and the connections which Feng Yu-hsiang⁷⁶ undoubtedly has with the Soviets and in general with the radical elements in China, the Japanese must sooner or later decide whether to join an Asiatic block with China and the Soviet Union or to remain, so to speak, a Western power. The proposal reported herein may well be evidence of a decision by Japan to remain in the concert of Western powers if she can be assured of a well-defined understanding with America and Great Britain for cooperation in China. Japan must also realize the advantage of such cooperation in view of the agitation against the Japanese which is now rather widespread in China. The Japanese may have concluded that the American Government is about to assume a more decided leadership or a certain independence of action in China showing more willingness than the other interested powers to respond sympathetically to China's aspirations for readjustments in her foreign relations. Japan may therefore wish to align herself with America both to keep us from winning undue prestige from such an independent position and to benefit by being in some way associated with America in the pursuance of a policy of this kind which would be popular with the Chinese.

8. Aside from the angles mentioned above with respect to such an understanding between the American, British, and Japanese Gov-

⁷⁵ *Post*, p. 835.

⁷⁶ Commander in chief of the People's Army and director general of the Northwest Frontier Defence.

ernments as is contemplated, I will only suggest a fact which may be worthy of serious consideration, which is that by aligning ourselves in such an association we would be taking an important step toward the adjustment of our relations with Japan as regards the recent immigration-law difficulties and, of even more importance, that it would be a move toward detaching Japan, at least for a time, from a pan-Asiatic alliance with the Soviet Union.

9. I am mailing a copy of this telegram to Tokyo.

MAYER

793.00/53 : Telegram

The Acting Secretary of State to the Chargé in China (Mayer)

WASHINGTON, July 6, 1925—7 p. m.

134. Department's 125 June 24, 6 p. m. [July 1, noon] was communicated to the Washington Conference Powers and to Denmark, Peru, Spain and Sweden for information.⁷⁷ Following telegram dated July 4, 1 p. m. has been received from American Embassy, London, from Perkins⁷⁸

"From informal conversation with Waterlow⁷⁹ it appears that the British Government fully shares the view of the American Government that it is essential to placate China by making such concessions as may be just and practicable. Without any desire however to be dogmatic on the subject Waterlow believes it preferable at the present moment to concentrate our efforts on the early convening of the special conference in which real and substantial advantages may be accorded to China rather than upon the meeting of the extraterritoriality commission since in the present state of China no very fundamental changes can be made in the immediate future as the result of the investigations of the commission. He feels that the simultaneous meeting of the conference and the commission might tend to confuse the Chinese public mind and to result in the exploiting of the more sentimental questions dealt with by the commission to the possible detriment of a proper appreciation of the real advantages to be obtained from the special conference. Waterlow regards it as inevitable that the scope of the conference itself must eventually be broadened encompassing the whole range of outstanding questions between China and the Powers."

GREW

⁷⁷ It was communicated also to Norway.

⁷⁸ Mahlon F. Perkins of the Division of Far Eastern Affairs, Department of State, who had been sent to London to confer with the British Foreign Office regarding the Special Conference for the Revision of the Chinese Customs Tariff.

⁷⁹ S. P. P. Waterlow, head of the Far Eastern Department of the British Foreign Office.

793.00/69

The British Chargé (Chilton) to the Secretary of State

No. 682

MANCHESTER, MASS., July 6, 1925.

[Received July 7.]

SIR: In my note No. 677 of the 3rd instant, I had the honour to submit to you the views of His Majesty's Government regarding the reply to be returned to the note recently addressed by the Chinese Government to the Corps Diplomatique at Peking, and I enquired whether the United States Government would be disposed to send instructions in the matter to the United States Representative at that capital similar to those which had already been addressed to His Majesty's Representative.

His Majesty's Government now learn that the United States Representative has already been informed of the attitude which he should adopt towards the note in question,⁸⁰ and it is understood that the tenour of his instructions is as follows:—

(1) The United States Government consider that the Chinese proposals should be met with an expression of willingness to accord help and full and sympathetic consideration to the modification of existing treaties in the same measure as the Chinese Government give proof of their power and ability to fulfil their obligations to protect foreign rights.

(2) The United States Government desire to expedite the preparations for a tariff conference, and have instructed the United States Representative to impress upon his colleagues the view that, when its work under the treaty has been accomplished, the conference should make recommendations upon which a programme for granting complete tariff autonomy may be elaborated.

(3) The United States Representative is also to make clear that the United States Government favour speedy preparations for sending out an extraterritorial Commission. Furthermore, this Commission should be requested to make recommendations upon which may be based a programme for the gradual relinquishment of extraterritorial rights *pari passu* with steps taken by the Chinese Government to establish a legal system capable of securing the legitimate interests of foreigners.

His Majesty's Government are in complete sympathy with the aims which these instructions are intended to secure. At the same time, however, I am instructed to inform you that His Majesty's Government entertain doubts as to the wisdom of laying down now that the Commission should be given such definite terms of reference as those suggested above. It is the opinion of His Majesty's Government that the Commission should be left free to make its own recommendations, and they consider that any attempt to indicate at this stage of the negotiations that the Powers are prepared to

⁸⁰ See telegram No. 125, July 1, to the Chargé in China.

go such lengths in meeting the Chinese demand for the abolition of extraterritoriality would be fraught with danger and liable to be regarded as a capitulation.

In these circumstances, His Majesty's Government are generally disposed to think that the ends common to the United States Government and to themselves can best be secured by concentrating upon the tariff conference, and by keeping the extraterritorial issue in the background, at any rate for the time being.

I have [etc.]

H. G. CHILTON

798.00/71

The British Chargé (Chilton) to the Acting Secretary of State

No. 682

MANCHESTER, MASS., July 7, 1925.

[Received July 8.]

SIR: With reference to the correspondence on the subject of the situation in China ending with my note No. 682 of July 6th, I have the honour to inform you, by instructions of His Majesty's Principal Secretary of State for Foreign Affairs, that His Majesty's Government are disposed to think that the dangers of the Chinese situation would be diminished if a joint declaration could forthwith be made publicly by the nine Powers signatory to the Washington China Treaties indicating their readiness to expedite the tariff conference and warning Chinese factions of the consequences if the present agitations should make a meeting of the Conference impossible. His Majesty's Government have accordingly drafted a declaration, the terms of which are as follows:—

"The Washington Customs Treaty⁵¹ provided for the early convocation of a conference at which by the agreement between China and the nine Powers, certain economic measures should be adopted for the benefit of China as a whole. The spirit animating the Powers remains today what it was then. Various subsequent changes in the situation which have delayed the meeting of a conference have not affected the original intentions of the Powers; on the contrary, they have confirmed these intentions whilst the Powers themselves consider that the objects of the Washington Conference are to fulfill an agreement to be reached at the Tariff Conference which will require to be of a more far-reaching and comprehensive nature than was originally contemplated. The Powers further hope that the Tariff Conference will be but the first step in a comprehensive revision of the treaties which they express their willingness to undertake at the earliest opportunity. The Powers are accordingly anxious to expedite the meeting of the Tariff Conference and to enter upon it with the desire to devise, in co-operation with the Chinese people, such modifi-

⁵¹ *Foreign Relations*, 1922, vol. I, p. 282.

cations of the present tariff system as will correspond to present needs and will supply China with the necessary resources to stabilize her administrative system and will create those conditions of internal stability and international accord which are necessary conditions for the assumption by China of her proper place in the comity of Nations. The Powers are anxious to lose no time in taking steps towards this end. But it is obvious that no effective progress can be made so long as the present anti-foreign agitation persists and especially so long as it expresses itself in the forms which imply absence of any responsible authority for the purpose of international consultation and co-operation.

The agitation now proceeding, unless the Powers have misjudged it, is pregnant with graver possibilities than the mere disintegration of responsible authority. It seems to be taking the form of an organized movement designed to extort forcibly from the Powers the unconditional abandonment of their rights and obligations conferred upon them by the present treaties. The Powers hope that they are mistaken in this estimation, but they feel it their duty solemnly to warn the Chinese Government that should these apprehensions be justified, an entirely new situation will be created in which not only will the hope of the Powers for constructive co-operation with China be frustrated but they will be obliged to consult together as to the immediate measures necessary to protect their interests until the realisation of these hopes shall again become possible."

I am directed to ascertain whether the United States Government concur in the terms of the above declaration. Any suggestions as to its wording will be gladly received by His Majesty's Government.

Furthermore, I am to explain that if the nine Powers have not agreed within a week on issuing the joint declaration, His Majesty's Government suggest that it should be made by themselves and the United States and Japanese Governments.

In view of this, I am directed to impress upon you the very great urgency of the matter.

I have [etc.]

H. G. CHILTON

798.00/80

The Secretary to the President (Sanders) to the Acting Secretary of State

LYNN, MASS., July 10, 1925.

[Received July 14.]

MY DEAR MR. GREW: This will acknowledge your favor of the 7th addressed to the President,⁸² in which you enclosed a copy of a note received by the Department from the British Chargé d'Affaires⁸³ setting forth the comments of the British Government on the issues

⁸² Not printed.

⁸³ Note No. 677 of July 3, p. 770.

raised by the Chinese Government's identic notes to the Legations in Peking of June 24th, and also your letter of July 8th ⁸⁴ in which you enclosed two additional notes received from the British Chargé d'Affaires on the same subject, dated, respectively, July 6th and 7th.⁸⁵ The President has directed me to advise you that he thinks in the circumstances the Secretary of State should use his judgment but cooperate as far as possible with the other interested powers, using great care not to have China think there is a division of counsel.

Sincerely yours,

EVERETT SANDERS

793.00/76 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, July 10, 1925—10 p. m.

[Received July 10—7:30 p. m.]

270. Following from MacMurray. Your 142, July 9, 3 p. m.⁸⁴

1. My own conviction is that the present ebullition of national self-consciousness on the part of the Chinese Government can be diverted from actions and uncontrolled hostility to foreign rights and interests only by consistent and scrupulous observation by the powers of the obligations already undertaken by them at the Washington Conference for the alleviation of what the Chinese regard as anomalous inequalities imposed upon them by the treaty. I, therefore, feel that we should resist any temptation to deviate from the course laid down by the Washington treaty and resolutions, and that we would be in a stronger position if the contemplated purposes of those agreements were to fail through the fault of the Chinese than if we were to deny the Chinese the opportunity for a reconsideration by the treaty powers of the several problems which the Washington Conference offered them the opportunity to discuss. In the face of the present agitation against foreign treaty rights, a strict adherence to the Washington Conference program seems to me the only safe road.

2. I feel that British note No. 683, July 7th, presents considerations which the powers strongly urged upon the consideration of the Chinese, but that to make these considerations a condition precedent to a fulfillment of our international obligation would merely inflame a popular psychology already abnormal and prone to seek occasions for the further embitterment of feeling against all foreigners.

⁸⁴ Not printed.

⁸⁵ *Ante*, pp. 775 and 776.

3. My recommendation is, therefore, that the Department should insist upon literal fulfillment of obligations undertaken by the powers in respect to Special Conference and the Commission on Extraterritoriality.

MAYER

793.00/78 : Telegram

The Ambassador in Japan (Bancroft) to the Secretary of State

TOKYO, July 12, 1925—1 p. m.

[Received July 12—9:22 a. m.]

124. Department's telegram 80, July 2nd, repeated [by] Peking, handed to Foreign Office.⁸⁶ Commenting on the document the Vice Minister for Foreign Affairs said he thought that the point of primary importance was complete accord between the United States, Great Britain and Japan; that Baron Shidehara⁸⁷ felt very strongly that all other considerations were of minor importance. Japan has received the British *aide-mémoire*, copy of which he gave to the Embassy, which showed, he thought, a point of view widely different from that of the United States. He felt that the British attitude was too stiff and that it would be unwise to offend the Chinese by practically refusing to consider their statement. Yet Japan could not ignore the disturbances in China and something ought to be said to make the Chinese feel that they had some responsibility in the matter. Japanese and British had been killed without anything being done by China to show that it felt any responsibility whatever.

So far as our instructions to Peking were concerned he felt that the Japanese were sympathetic with paragraph 1 and with the second part of paragraph 2 dealing with extraterritoriality. In his opinion they did not much differ from the views of MacMurray and Shidehara as expressed in their interview in Tokyo.

With reference to the Customs Conference, he felt that it would be unwise to go beyond the terms of the Washington Conference agreements or of existing treaties. He felt that it would be inopportune to discuss such matters as tariff autonomy under existing conditions.

He said that the Japanese position would be defined early this week and the Foreign Office would then be able to discuss the matter more fully. Peking informed.

BANCROFT

⁸⁶ The Legation in China had been instructed to repeat Department's telegram No. 125, July 1, noon, to Tokyo as telegram No. 80, with instructions to communicate it to the Japanese Foreign Office for its information.

⁸⁷ Japanese Minister of Foreign Affairs.

793.00/71

*The Secretary of State to the British Chargé (Chilton)*⁸³

WASHINGTON, July 13, 1925.

SIR: I have the honor to acknowledge the receipt of your notes Nos. 677 and 682 of July 3, 1925, and July 6, 1925, respectively, with reference to the note recently addressed by the Chinese Government to the Corps Diplomatique at Peking, and to the suggested reply thereto submitted in the form of an identic telegram to their respective governments by the heads of the Legations concerned. In considering the points raised in the Chinese Government's note of June 24, I have not failed to be impressed with the magnitude of the issues raised therein which include, as you state, the question of extraterritoriality in all of its aspects and the future attitude of the Powers towards the demands of China in such matters as the revision of treaties, the suppression of mixed courts, the retrocession of leased territories and fiscal autonomy.

This Government finds itself in complete accord with the British Government in its opinion that the Chinese Government must be impressed with the necessity of giving some concrete evidence of its ability and willingness to suppress disorders and enforce respect for the safety of foreign lives and property, and I feel that these conditions to any ordered and fruitful discussion regarding treaty revision should be emphasized and placed in the forefront of any reply which may be made to the Chinese Government's identic note.

This Government feels very definitely, however, that the growing spirit of national unrest in China, which, in this present situation, is being encouraged by radical statements and ideas emanating from those holding revolutionary theories regarding Government and the relations of states must be met by something more concrete than mere promises of action such as were written into the new commercial treaties which followed the settlement of the Boxer uprisings of 1900. It feels furthermore very strongly that this condition in China can best be met by consistent and scrupulous observance by the Powers of the obligations already undertaken by them at the Washington Conference for the alleviation of what the Chinese regard as anomalous inequalities imposed upon them by former treaties. While it might with truth be urged that government in China today is ineffective, it may also be said that little opportunity is given to any section of the Chinese people to make their government effective because of a continued scarcity of funds necessary to the maintenance of

⁸³ The views set forth in this note were repeated in substance, July 14, to the American diplomatic representatives in Japan, France, Belgium, the Netherlands, Italy, and Portugal to be communicated to the respective Foreign Offices of those countries for their information.

It was in consideration of the above facts that this Government instructed its Legation at Peking in the terms referred to in your Note No. 682 of July 6, 1925. Because of these considerations and because the terms of Resolution No. V do not call specifically for anything in the way of recommendations, it was deemed advisable that the Powers concerned should agree to instruct their Commissioners to go beyond the mere letter of the Resolution itself and include in their report recommendations upon which a definite program for the consideration by the Governments concerned of the question of extraterritoriality might be based. This Government for its part desires that this be done in order that it can have before it for consideration some feasible plan of action for the future.

I venture to hope that the British Government will find itself so far in agreement with the attitude outlined above as to see its way to join this Government in urging the early calling of the Conference on Chinese Tariff and the sending of the Commission referred to above in order that the Powers may at an early date have before them data upon which they can determine their future course in dealing with these two of the many questions raised by the Chinese note.

I have also received your note, Number 683, of July 7, 1925, with further reference to the situation in China in which you set down the text of a declaration which the British Government proposes should be made public jointly by the nine Powers signatory to the Washington Conference Treaties in regard to China. I note that the British Government is disposed to believe that the making of such a declaration at this time would assist materially in diminishing the dangers of the Chinese situation.

I have given very careful consideration to this proposal of the British Government and feel with it that the situation now existing demands some action on the part of the Powers which participated in the Washington Conference, which will evidence to the Chinese their desire to see the agreements made at Washington carried out. I feel that some such action is necessary to meet the arguments that the contrary is the case which are now being used by agitators among the Chinese. My views as to the best way to meet this agitation have been fully set forth above. I repeat that it is the opinion of this Government that a strict adherence to the Washington Conference programs seems the only safe road. I have been unable to convince myself, however, that the present is an opportune moment for the making of any public statement with regard to conditions in China. I am the more disposed to feel that the Powers should wait in this matter in view of the fact that the representatives at Peking are even now considering the nature of the replies which they will make to the Chinese Government's identic notes of June 24. I feel that the con-

3. It is realized that the Chinese authorities in different places have been making efforts, although with varying degrees of success, to suppress disorder. At the same time, they have freely given their moral, if not material, support to the movements for the revision of treaty relations, regardless of the means employed or of the consequences involved in the support of such movements. The note addressed by the Chinese Foreign Minister to the Japanese Representative at Peking shows the disposition of the Chinese Government to take advantage of the Shanghai incident for urging consideration by the Powers concerned of many sweeping demands which are not directly connected with the incident itself.

4. The Government and people of Japan always look with sympathy on the legitimate national aspirations of the Chinese. The Japanese still retain bitter memories of the regime of extraterritoriality that existed in their own country years ago, and so their minds are naturally receptive to the Chinese appeal for the termination of that system. They are also mindful of the manifold difficulties with which China is now confronted in her domestic and foreign relations, and they trust that Marshal Tuan Chi-jui will appreciate the patience and self-restraint which they have consistently exercised at this time when such heavy damage has been inflicted upon their countrymen.

5. It will, however, be well understood that the attainment of legitimate national aspirations must be sought through means equally just and honourable. Japan, during a period of twenty years, had devoted all her energy and attention to the completion of judicial reforms before she proceeded to the abolition of extraterritoriality within her own borders. When the results of her labour were made evident, the Powers gladly abandoned the immunity which they had previously enjoyed by treaty. The same immunity is still enjoyed by foreigners in China. It is, however, by no means due to any intention on the part of the Powers to stigmatize the Chinese people. It is based on the actual necessity inherent in and consequent upon the present inefficiency in the administration of justice. No attempt is likely to succeed which is designed to remove any effect without removing its cause. On the other hand, if the Chinese Government should decide to introduce immediately necessary reforms in the administration of justice, and thereby to prepare the way for the termination of extraterritoriality, they may reckon upon the whole-hearted co-operation of the Japanese Government in common with the other countries.

6. It further seems extremely unfortunate that the present agitations of the Chinese for the revision of treaty relations should be closely associated with activities looking to the destruction of industrial organization. So long as strikes in factories are no more than

a means to secure better conditions of employment, they shall give no occasion for official interference. But when they represent organization to undermine the whole structure of industry, they will prove a cause of serious danger as much to China herself as to other countries.

7. The Japanese Government are of the opinion—

- (a) that the questions directly connected with the Shanghai incident shall first of all be brought to a final adjustment as quickly as possible;
- (b) that thereupon, the questions concerning the jurisdiction of the Mixed Court, the organization of the Municipal Council and other kindred matters in Shanghai shall next be taken up and settled in the light of local requirements;
- (c) that finally the questions of extraterritoriality and of customs tariff shall be disposed of, in conformity with the terms and spirit of the arrangement reached at the Washington Conference;
- (d) that all bona fide labour disputes concerning the terms of employment may be left for direct discussion between the representatives of capital and labour, and no agitation from sources outside the immediately interested parties should be permitted to interfere;
- (e) and that at the same time, it rests with the Chinese Government to carry out fully and firmly their obligations affording protection to the lives and property of foreigners, and to see the realization of China's just aspirations, with the sympathy and understanding of the Powers.

8. If, as [is] confidently hoped, Marshal Tuan Chi-jui should face the situation with determination on the line of thought and action above suggested, the Government of Japan will be happy to do whatever lies in their power in supporting such a policy conjointly with other Powers.

793.00/83 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, July 16, 1925—9 p. m.

[Received 10:50 p. m.]

277. 1. Legation's 263, July 5, 1 p. m. In the course of a conversation on July 10 regarding the situation at Shanghai, the Japanese Minister inquired whether I was informed of the tenor of his conversation with Mayer. Yoshizawa urged that the American, British, and Japanese Governments cooperate in seeking a solution of the present crisis. It seemed to me that he somewhat conspicuously avoided referring to more general cooperation.

2. Yoshizawa inquired regarding the willingness of the United States to cooperate in the particular matter under consideration. I told him that personally I believed that my Government would welcome heartily cooperation on the basis contemplated as I understood it, i. e., not an agreement restricting the freedom of action which might be considered by some power to be necessary, not a set of obligations, but rather a state of mind based upon the realization that the powers concerned have common interests and purposes, confidence in each other, and a spirit of accommodation. Yoshizawa said that he was pleased with this tentative expression of my opinion. He suggested that after I had had an opportunity to consider it we should discuss the matter further.

3. As there have been exacting and incessant discussions among the Ministers with respect to the situation at Shanghai, I have not been able to find an opportunity to resume my discussion with my Japanese colleague without giving an impression of emphasis which I am afraid would be misunderstood. I am waiting for a chance for a more apparently spontaneous resumption of my conversation with Yoshizawa. In the meantime I submit to you my own suggestion on behalf of the Japanese Government.

4. In telegram 118 of July 1 from our Embassy in Japan⁹² I reported my conversation with Baron Shidehara on June 30. From our discussion it seems to me that we may assume that there is such a substantial agreement in points of view between the Japanese and us that we can work in harmony with respect to the general situation in China with special reference to the necessity for envisaging the growth of Chinese national feeling and adapting ourselves to it. I believe the Japanese desire to work along the same lines with us and are even ready to make further concessions to our views so as to maintain solidarity with us. The British Government likewise has for the same reason shown a willingness in the past to work in harmony with us. The United States, Great Britain, and Japan, apart from Russia, have the largest interest in China and as a result are more disposed to take long views instead of seeking small temporary advantages, as the Italians, for example, do. It seems to me, therefore, that there is an opportunity for these three powers to coordinate their general policies toward China and whenever possible harmonize their individual actions with the purposes which they hold in common.

5. I somewhat fear, however, that the Japanese may have in mind some more definite object involving some sort of tripartite agreement which would deprive us of a freedom of action we would not be willing to relinquish and which would also produce a psychological result that might outgrow the scope of the original agreement, as did the

⁹² *Post*, p. 836.

Anglo-Japanese Alliance. My doubt on this score is increased because Yoshizawa seems to have given some emphasis to the differentiation which Japan made between her interests in Manchuria and in the rest of China. There would seem to be no occasion at present for Japan to seek assurances as to the validity of her vested interests in Manchuria, whatever may be the fact as to the greater amount of concern which she may have reason to feel respecting her interests in that area. As the experience of the Anglo-Japanese Alliance, the Lansing-Ishii Agreement, and Consortium negotiations indicated, it is not possible to give public recognition to any special concessions or claims regarding a particular region in China without laying the basis for misunderstandings. I consider the chief value of the four-power Pacific pact to be that it replaced the Anglo-Japanese Alliance with an understanding clearly disconnected with the continent of Asia. Furthermore, the Washington Conference prepared the way for the cancelation of the Lansing-Ishii Agreement. I would consider it unfortunate for us to become involved in any new understanding which would in any degree revive the effects of the Anglo-Japanese Alliance and the Lansing-Ishii Agreement.

6. I fear that any agreement definitely identifying ourselves with Great Britain and Japan would be a positive disadvantage to our interests, apart from any question of reviving the understandings mentioned above. This is particularly true at a time when Chinese feeling against both the British and Japanese is aroused to an unexplainable and unnatural degree. I do not think we should seek to disassociate our responsibilities and interests from those of the British and Japanese and, in fact, I have taken the liberty of assuring the British Chargé that we do not intend to try to exploit the agitation against the British to their disadvantage. Nevertheless, I am becoming daily more impressed that it would be unwise to place ourselves in the position of espousing the cause either of the British or of the Japanese. In the present undeveloped stage of Chinese political thinking, hatred first of the British and secondly of the Japanese is the consuming passion. The United States is being eagerly watched to see whether it is pro-Chinese or whether it is pro-British or pro-Japanese. I think we can work honorably with the British and Japanese and yet not quixotically identify ourselves with them in such a way as to bring upon ourselves a share of the odium in which the Chinese hold them.

7. It is my feeling, therefore, that, while carefully avoiding accepting any commitments or obligations which might hinder us from maintaining our own policies and views regarding China, we should cordially welcome any offer from the British and Japanese to work as far as possible in a spirit of harmony with them.

MACMURRAY

793.00/83 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, July 18, 1925—noon.

157. Legation's telegram 277, July 16, 9 p. m. I am in full agreement with you in regard to the attitude that should be taken by us. According to statements appearing in newspapers here, a working agreement between the United States, Great Britain, and Japan was in effect. This statement has been denied by me, but I have stated that of course Great Britain, Japan, and all the powers interested in China are being consulted by us. In my opinion we should not have any agreement with the powers whereby our general policy, as set forth in my instruction No. 125 of July 1 and in my note to the British Embassy of July 14 [13], telegram No. 148,⁹³ would be varied. It is indicated in the memorandum handed by the Japanese Minister in Peking to the Chief Executive of China,⁹⁴ the substance of which was cabled to you in the Department's No. 151 of July 16,⁹⁵ that the views of Japan, except for the insistence on the Shanghai settlement before taking up any of the other matters, are practically along the same line as the views of the United States Government. The Shanghai settlement seems to me to be a special matter, very desirable of course, but the general situation should not depend upon that settlement. Considering that Japan has communicated its views to the Chinese Government, and in the absence of an agreement by the other Governments to an identic note of the sort proposed by us, a statement of your views is desired as to whether it would not be wise for our views, substantially as given in the notes referred to above, to be outlined in a separate note to China in reply to its note of June 24.

KELLOGG

793.00/91

The British Chargé (Chilton) to the Secretary of State

No. 701

MANCHESTER, MASS., July 20, 1925.

[Received July 21.]

SIR: I have the honour to inform you that His Majesty's Government have given the most careful consideration to the views of the United States Government as set out in your note of the 13th instant regarding the suggested reply to the representations recently ad-

⁹³ Telegram No. 148, July 14, to the Chargé in China, not printed; it quoted the note of July 13 to the British Chargé, p. 780.

⁹⁴ See memorandum from the Japanese Embassy received July 16, p. 783.

⁹⁵ Not printed.

addressed by the Chinese Government to the Corps Diplomatique at Peking. The conclusions which His Majesty's Government have now arrived at are as follows:—

After the fullest possible review of the facts of the situation His Majesty's Government are still of the opinion that it would be inadvisable to make any delay in acquainting the Chinese Government with the attitude of the Powers. In this opinion they are supported by the replies received from the other governments whom they have consulted. Nevertheless, in deference to the views of the United States Government, His Majesty's Government are prepared to endorse the proposal submitted by the Italian Government^{**} which appears to be in substantial accord with the procedure contemplated by the United States Government. His Majesty's Government are also prepared to adopt a series of amendments which the Japanese Government have proposed to the draft joint declaration conveyed to the Acting Secretary of State in my note No. 683 of July 7th. I am forwarding the text of these suggested amendments under cover of a separate note and a perusal of them will show that they go far to meet the views of the United States Government regarding the Commission to consider the question of extraterritoriality. At the same time, however, His Majesty's Government would deprecate giving the investigations of this Commission so distinct a lead as is implied in the relevant passages of your note under reference.

Taking into account the above considerations, which call for an amplification of the proposals conveyed to you in my note No. 677 of July 3rd last, His Majesty's Government are of opinion that the reply of the Corps Diplomatique at Peking to the representations of the Chinese Government should consist:

(1) of an emphatic statement that there can be no discussion of particular reforms much less a review by the Powers of their treaty relations with China until the Chinese Government have given evidence of their ability and willingness to suppress disorders and to enforce respect for the safety of foreign lives and property and put an end to strikes and agitations which are harmful to Chinese and foreign commercial interests.

(2) of a reminder that the Powers have throughout shown willingness to undertake a full enquiry into the facts of the Shanghai riots and to discuss results with the Chinese Government. Extraneous matters mentioned in the thirteen Articles relating to Shanghai, but not immediately connected with the riots, must form the subject of separate negotiations which the Powers are prepared to undertake at an early date.

(3) of the text of the proposed declaration arranged in a manner to suit its context in the reply and revised in accordance with the suggested Japanese amendments which appear in the main to meet such modifications as have been proposed by other Powers.

^{**} See note No. 703, July 20, from the British Chargé, p. 791.

Whilst disposed to think that the exact text of the reply and the question of publicity can best be left to the discretion of the Corps Diplomatique at Peking His Majesty's Government consider that the whole matter should be expedited in order that the Chinese may be given no further cause to doubt the sincerity of the Powers with regard to the fulfilment of their obligations under the Washington Treaties.

I accordingly have the honour to request that you will be so good as to acquaint me at the earliest possible moment with the attitude of the United States Government towards the above proposals. In the event of the United States Government concurring therein His Majesty's Government are prepared to recommend the change of procedure as outlined above to the other Powers concerned, the majority of whom have already intimated that they approve action and the draft declaration in the form originally proposed.

I have [etc.]

H. G. CHILTON

793.00/92

The British Chargé (Chilton) to the Secretary of State

No. 702

MANCHESTER, MASS., July 20, 1925.

[Received July 21.]

SIR: With reference to my immediately preceding note I have the honour to inform you that the Japanese Government have suggested the following amendments to the proposed joint declaration,⁹⁷ the draft text of which I conveyed to you in my note No. 683 of July 7th.

After the words "as a whole" add "The Washington Conference further passed a resolution for the establishment of an international Commission to enquire into the existing conditions of the administration of justice in China with a view to the eventual relinquishment by the several Powers of their respective rights of extraterritoriality."

Before the words "have not affected" insert "and Commission".

Delete the passage in the declaration from "while the Powers themselves consider that" down to the words "earliest opportunity" and substitute therefor "and the Powers declare their willingness to consider sympathetically and to help fully the just and reasonable aspirations that the Chinese people may seek to attain through means equally legitimate."

After the words "expedite meeting of the Tariff Conference" add "and Commission on question of extraterritoriality."

Delete from "present tariff system" to "towards this end" and substitute "present tariff and judicial arrangements as will give effect

⁹⁷ The text of the Japanese draft as received by the Department on July 21 is printed on p. 792.

to the terms and spirit of the agreement reached at the Washington Conference and will materially contribute to the establishment of those conditions of internal stability and international accord which are necessary for the assumption by China of her proper place in the comity of nations."

Delete from "anti-foreign agitation" down to the words "present government [*present treaties?*]" and substitute therefor "agitation threatening the security of foreign lives and property persists in China and especially so long as it expresses itself in the form of an organized movement designed to extort forcibly from the Powers the unconditional abandonment of rights and interests assured to them by present treaties. Such agitations seem to be pregnant with graver possibilities than the mere disintegration of responsible authority."

In the last sentence the words "not only will" should be deleted and the sentence itself should end with the words "the hope of the Powers for constructive cooperation with China will be frustrated."

His Majesty's Government approve the above proposed amendments to the draft declaration and in bringing them to your notice, I have the honour to express the hope that the United States Government may also be disposed to concur in their adoption and with the suggestion that the revised text of the declaration should be embodied in the reply to the representations of the Chinese Government.

I have [etc.]

H. G. CHILTON

793.00/93

The British Chargé (Chilton) to the Secretary of State

No. 703

MANCHESTER, MASS., July 20, 1925.

[Received July 21.]

SIR: I have the honour to refer to my immediately preceding notes regarding the reply to be returned by the Diplomatic Body at Peking to the representations addressed to them by the Chinese Government on June 24th last.

His Majesty's Government now inform me that the Italian proposal, to which reference was made in paragraph two of my note No. 701, is that the identic reply by the Powers to the above-mentioned Chinese representations should embody and itself constitute the public declaration previously suggested by His Majesty's Government.

I have [etc.]

(For His Majesty's Minister)

JOHN BALFOUR

500. A 4e/252

*The Japanese Embassy to the Department of State*⁹⁸

The Washington customs treaty provided for the early convocation of a conference at which, by agreement between China and the Powers, certain economic measures should be adopted for the benefit of China as a whole. The Washington Conference further passed a resolution for the establishment of an international commission to inquire into the existing conditions of the administration of justice in China, with a view to eventual relinquishment by the several Powers of their respective rights of extraterritoriality.

The spirit animating the Powers remains today what it was then. Various subsequent changes in the situation which have delayed the meeting of the conference and the commission have not affected the original intentions of the Powers; on the contrary, they have confirmed these intentions, and the Powers declare their willingness to consider sympathetically and helpfully just and reasonable aspirations that the Chinese people may seek to attain through means equally legitimate.

The Powers are accordingly anxious to expedite the meeting of the Tariff Conference and the commission on the question of extraterritoriality, with the desire to devise in cooperation with the Chinese people such modifications of the present tariff and judicial arrangements as will give effect to the terms and the spirit of the agreement reached at the Washington Conference, and will materially contribute to the establishment of those conditions of internal stability and international accord which are necessary conditions of the assumption by China of her proper place in the community of nations. But it is obvious that no effective progress toward this end can be made so long as the present agitation threatening the security of foreign lives and property persists in China, and especially so long as it expresses itself in the form of an organized movement designed to extort forcibly from the Powers the unconditional abandonment of the rights and interests assured to them by the present treaties. Such agitation seems to be pregnant with graver possibilities than the mere disintegration of responsible authority.

The Powers hope that they are mistaken in this estimate. But they feel it their duty solemnly to warn the Chinese Government that should these apprehensions be justified an entirely new situation will be created in which the hope entertained by the Powers for a new era of constructive cooperation with China will be frustrated.

⁹⁸ This Japanese draft of the proposed joint declaration in reply to the Chinese note of June 24, was handed to the Secretary by the Japanese Ambassador on July 21, 1925.

793.00/98

The Secretary of State to the British Chargé (Chilton)

WASHINGTON, July 23, 1925.

SIR: I have the honor to acknowledge the receipt of your notes Nos. 701, 702 and 703, all dated July 20, 1925, with further reference to the suggested reply to the representations recently addressed by the Chinese Government to the Corps Diplomatique at Peking. The Government of the United States is in complete accord with the opinion of the British Government that it would be inadvisable to make any delay in acquainting the Chinese Government with the attitude of the Powers. It is gratified to learn from your note No. 701 that the British, Japanese and Italian Governments agree with the views of this Government that the best way to meet the questions raised in the Chinese Government's note is to announce the willingness of the Powers concerned to proceed at an early date to the fulfillment of the undertakings entered into at the Washington Conference in regard to the calling of the Special Conference on Tariffs and the sending of the Commission on Extraterritoriality. At present the only point at which there appears to be any lack of accord in the views of the Powers is in regard to the precise phraseology of the communication whereby the attitude of the Powers will be communicated to the Chinese Government.

Careful consideration has been given to the view of the British Government that the reply of the Diplomatic Body at Peking should embody "an emphatic statement that there can be no discussion of particular reforms, much less a review by the Powers of their treaty relations with China until the Chinese Government have given evidence of their ability and willingness to suppress disorders and to enforce respect for the safety of foreign lives and property and put an end to strikes and agitations which are harmful to Chinese and foreign commercial interests." The American Government believes itself to be in substantial accord with the attitude of the British Government upon this point in the sense that it is obviously impracticable for the Special Conference to be convened in the midst of civil war or under conditions of anti-foreign agitation which might in any way prejudice or hamper its deliberations or its complete freedom of action. As a matter of practical policy, however, this Government is of the opinion that it would be preferable not to make the complete restoration of order by the Chinese Government a condition precedent to the discussion of particular reforms or a review of treaty relations because of the possible difficulty of attaining subsequent unanimity among the Powers as to the fulfillment of the condition desired. This Government believes that it will suffice to convey fair warning to the Chinese Government of its re-

sponsibility for the preservation of order, the suppression of anti-foreign agitation, the protection of the persons and property of foreigners, and the maintenance of conditions which will make it possible for the Conference to function, clearly indicating the definite intention of the Powers to hold the Conference in the manner provided by treaty and placing squarely before the Chinese Government the fact that it will be that Government's responsibility alone, if conditions remain or become such that the Conference cannot convene as intended. By this method of approach, it is believed that the end desired may be equally as well achieved without at the same time running the risk of creating another issue between the Chinese Government and the Powers, or of a division among the Powers themselves, as to the holding of the Conference.

The Government of the United States feels in short that to include in the note an emphatic statement that there can be no discussion of particular reforms, much less a review by the Powers of their treaty relations with China until the Chinese Government has given evidence of its ability and willingness to suppress disorders, strikes and agitations, would tend to defeat its own purpose. It is felt by this Government that the primary effect of convening the customs conference and the Commission on Extraterritoriality would afford the Chinese Government the very means by which it could effectively deal with the situation, and without which it would remain impotent. The conditions laid down by the British Government would in the opinion of the Government of the United States create in the minds of the Chinese Government and people a suspicion that the Powers were merely endeavoring to find grounds for delaying the carrying out of their commitments of the Washington Conference and far from exercising a calming effect on the country would tend to add new stimulus to the disorders, strikes and agitations.

The Government of the United States has no objection to the views of the British Government that the reply should indicate the willingness of the Powers to undertake a full inquiry of the facts into the Shanghai riots.

The Government of the United States desires to call the attention of the British Government to the fact that the proposed reply to the Chinese note suggested by the Japanese Government, in amendment to the British proposal of July seventh, does not, as does the British proposal, suggest that the Powers are willing to take steps for the comprehensive revision of the treaties at an early opportunity. It feels that some reference should be made to this in the proposed reply.

The Government of the United States agrees with the British Government that the exact text of the reply and the question of publicity can best be left to the discretion of the Corps Diplo-

matique at Peking. In order that the British Government may understand the views of the Government of the United States as to the nature of the reply which it would like to see transmitted to the Chinese Government I quote the following text which is being communicated to Mr. MacMurray at Peking for consideration with the representatives of the other Powers in Peking."

"Careful consideration has been given to the important questions raised in the note of the Chinese Government by the Government of the United States, which has for some time been aware of the growing feeling in China in favor of a readjustment of the Chinese treaty relations with the foreign Powers, and has watched the growth of that sentiment with a constant and sympathetic interest. It is believed that the Chinese Government does not require to be reminded of the concrete evidence of this interest which has been made manifest on each occasion when a question of treaty revision has occupied the attention of the two countries. The United States is now prepared to consider sympathetically and helpfully the Chinese Government's proposal for the modification of existing treaties in measure as the Chinese authorities demonstrate their willingness and ability to fulfill their obligations and to assume the protection of foreign rights and interests now safeguarded by the exceptional provisions of those treaties. It is because of a most earnest desire to meet the aspirations of the Chinese Government that the Government of the United States desires to impress upon the Chinese Government the necessity of giving concrete evidence of its ability and willingness to suppress disorders and enforce respect for the safety of foreign lives and property.

"My Government sympathizes with the feeling of the Chinese Government that the tariff schedules attached to the various treaties between China, the United States and other Powers have become a severe handicap upon the ability of China to adjust its import tariffs to meet the domestic economic needs of the country. It must not be forgotten, however, that these tariffs were first inaugurated in 1842 and they were a *modus operandi* originally devised to meet and remedy a condition which had been a fertile source of friction in the relations between the two countries due to the uncertainties connected with the rates and methods of collecting the then existing tariffs. Schedules of those tariffs were seldom available for the information of the merchant, who was hampered in his business by the unusual abrupt and various methods in the assessment and the collection of the duties. It is the belief of my Government that the conventional tariff was welcomed, not alone by the United States and other Powers, but by China, as a diplomatic solution of what had proved to be a very vexatious question.

"Since the revision of the treaty relations between the United States and China of 1903, the United States has given particular attention to every evidence of effort on the part of the Chinese Government in

"The text of the draft reply was also telegraphed to the American diplomatic representatives in Belgium, Denmark, France, Great Britain, Italy, Japan, the Netherlands, Norway, Peru, Portugal, Spain, and Sweden with instructions that it be communicated to the respective Foreign Offices.

the direction of fiscal reform which could be taken as an assurance that the old cause of international friction need no longer be feared and that the conventional tariff could be abandoned.

"It was at the time of the negotiation of the Commercial Treaty of 1903¹ that the Chinese Government expressed a desire to reform its judiciary system and to bring it into accord with that of western nations. The United States agreed to give every assistance to such reform and stated that it would be prepared to relinquish extraterritorial rights when satisfied that the state of the Chinese laws, the arrangement for their administration and other considerations warranted it in so doing. Having in mind this promise, my Government has observed each measure that the Chinese Government and its people, during the twenty two years which have passed, have taken for the establishment of an independent judiciary and the enactment of laws for the administration of justice. It has been gratified to note the progress that has been made in this connection. The establishment of courts and the enactment of laws, however, do not in themselves meet all the requirements of the situation. Courts cannot function and develop properly or consistently without the aid of a stable government, capable and willing to maintain them and enforce their findings and decisions. It is regretted that the inability of the Chinese Government during the past several years fully to enforce the mandate of its authority has made it difficult for the courts and judiciary already established to function in a normal manner.

"The questions of the conventional tariff and the extraterritorial rights under which citizens and subjects of the treaty Powers reside in China are two of the important questions raised by the Chinese Government's note. Both received consideration at the Washington Conference and it is the belief of the Government of the United States that the most feasible method for dealing with them is by a constant and scrupulous observance of the obligations undertaken at that Conference. To that end the Government of the United States is ready to appoint its delegates to the Special Conference on Chinese tariff matters provided for in the treaty of February 6, 1922,² and is furthermore ready to accept any reasonable proposal for extending the scope of that Conference to enable it to deal fully and completely with all matters related to its purpose. My Government is also willing, either at the tariff conference or at a subsequent time, to take up the subject of a comprehensive revision of the treaties, looking toward ultimate tariff autonomy.

"Before it can form any opinion as to what, if any, steps can be taken to meet the desires of the Chinese Government in regard to the question of extraterritoriality and those special sanctions of the treaties under which its citizens live and conduct their enterprises in China, my Government desires to have before it more complete information than has heretofore been available, and the most feasible way in which the question can be approached and considered is to send to China the commission provided for in Resolution V of the Washington Conference³ in the expectation that the investigation made by that commission will help to guide the treaty Powers as to

¹ *Foreign Relations*, 1903, p. 91.

² *Ibid.*, 1922, vol. I, p. 282.

³ *Ibid.*, p. 289.

what, if any, steps should be taken as regards the relinquishment, by gradual means or otherwise, of extraterritorial rights at this time. My Government is now ready to appoint its commissioner to sit with the commissioners of the other interested governments in accordance with that resolution and hopes that that commission may be able to proceed at an early date to begin the work of collecting data necessary to enable it to make a report. It is prepared to instruct its commissioner to join his colleagues in including in their report recommendations based upon their findings which will enable the governments concerned to consider what, if any, steps may be taken with a view to the relinquishment of extraterritorial rights."

Accept [etc.]

FRANK B. KELLOGG

793.00/93 : Telegram

*The Secretary of State to the Minister in China (MacMurray)*⁴

WASHINGTON, July 23, 1925—3 p. m.

165. Department's 125, July 1, Noon, and text of Japanese proposal communicated to you by Tokyo July 22.⁵

Department has now received British Embassy's reply to its note, text of which was communicated to you in its No. 148 of July 14, 5 p. m.⁶

[Here follows the substance of the three notes from the British Chargé, dated July 20, printed on pages 788-791; also the text of the Department's reply, dated July 23, printed *supra*, which contains an alternate draft reply to the Chinese note of June 24.]

You will use above quoted text as basis for discussing with your colleagues the texts of replies which will be made to Chinese Government's note and evidence of the attitude that this Government desires to take. Department does not insist on wording as given but desires opportunity to approve any suggested changes.

Repeat to Tokyo as Department's No. 92 omitting last paragraph, referring to Tokyo's No. 131, July 21, 5 p. m. to Department.⁷ Instruct Tokyo to communicate text of Department's reply to British Embassy to Japanese Foreign Office for its information.

KELLOGG

⁴ See last paragraph for instructions to repeat to Tokyo as Department's No. 92.

⁵ The Japanese proposal referred to is the same as the Japanese draft reply to the Chinese note of June 24, handed to the Secretary by the Japanese Ambassador on July 21, p. 792.

⁶ Telegram No. 148 not printed.

⁷ Not printed.

793.00/101 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 27, 1925—5 p. m.

[Received July 27—4:38 p. m.]

292. 1. Your telegram No. 165, July 23, 3 p. m. received with texts too garbled to submit formally to colleagues until corrected.

2. I nevertheless took occasion this morning to read it to my Japanese colleague who expressed himself gratified by the fact that despite somewhat different distribution of emphasis our draft seems to represent substantially the views of his Government save insofar as it refers to tariff autonomy in the concluding sentence of fourth [fifth] paragraph of your draft.

3. I had myself intended to suggest that that sentence be revised to read "My Government is also willing either at the Tariff Conference or at a subsequent time to take up the subject of a renewed consideration of the treaties with a view to the possibility of ultimate further relaxation of the provisions restricting the rates of duty leviable upon imports and exports." The phrase "tariff autonomy" is one of the catchwords of the radical movement and has acquired connotations of a sort that make its use dangerous because we could not control or even foresee the constructions which might be placed upon it by the Chinese public. The same is in less degree true of the phrase "comprehensive revision."

4. In the following paragraph I also suggest the substitution of the word "safeguards" for "sanctions" in view of the confusion that might arise from the very different significance of this word as used by the French.

5. While asking authority to make these amendments and reserving possible comment upon minor points let me say that in substance and in tone I think this draft is admirably adapted to meet the present situation. I propose to discuss it next informally with British Chargé d'Affaires and the Italian Minister and upon getting a satisfactory reading will communicate it officially to representatives of powers signatory and adherent to Washington customs treaty and resolution on extraterritoriality.

6. Should it prove impossible to obtain almost immediate concurrence of those representatives in an identic note based upon your draft I strongly recommend that we send our own note and let the others send what they see fit in reply to the Chinese note of June 24. It would strengthen my hand in dealing with indecision and petty criticisms which I apprehend on the part of certain of the colleagues if you were to authorize me in my discretion to say that we are prepared to act in that manner. In that event it seems to me that it would be advisable that no two representatives should send

notes in identical terms lest we thereby give the Chinese more convincing evidence of incomplete solidarity among the interested powers than if each were to reply separately.

Repeated to Tokyo.

MACMURRAY

893.00/6453 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 28, 1925—9 a. m.

[Received 7:40 p. m.]

293. 1. It may be helpful to the Department to receive an analysis of the tentative impressions I have thus far been led to form in regard to the present situation in China which seems to me more critical than any since Boxer year. Among the vicinal elements I have found Chinese feeling, primarily racial, secondarily national, aroused to an emotional fervor which I was scarcely prepared to realize even after a dozen years of observing the growth of national self-consciousness in China. The Shanghai incident seems to have awakened instincts and passions hitherto dormant, and given an element of fanaticism to what were behind the somewhat unsympathetic and desultory aspirations of the small articulate portion of the Chinese people.

2. I am not inclined to believe that an outburst of feeling has resulted solely or even primarily from Bolshevik incitement. The propaganda of the Soviets has no doubt hastened and given direction and impetus to the new development, supplying it with catch words and lending it the encouragement of Soviet moral and material support; but the movement seems to me to be fundamentally an evolution of native Chinese thought and feeling.

3. It is so much a matter of psychological rather than material considerations that I feel that any attempt to evaluate the situation must take account of imponderable emotional elements far more than of any concrete claims or grievances. The basic factor seems to be that the Chinese, in common with other Asiatic peoples, have particularly since the war been growing more favorably self-conscious, less in awe of the western peoples, and more determined to assert themselves and resent the assumed superiority of the white races. Insofar as it was political in character, that tendency has, I believe, been fully appreciated and discounted by the Department, which has foreseen the difficulty if not in fact the impossibility of maintaining special treaty rights in the face of growing nationalism in China.

4. That tendency has recently been vastly complicated however by more subtle elements of feeling latent in the minds of the Chinese and now brought to the surface by an emotional upheaval. Chinese who were heretofore most friendly and congenial with foreigners are now stirred to intolerance and pour out of their memories long stored-up recollections of abuses and indignities on the part of foreigners towards their people—instances of jostling off the sidewalks, of the kicking of rickshaw coolies, and the like. Even though it expresses itself in political terms, the present crisis of feeling, it seems to me, is to be construed as a revulsion against what the individual Chinese feels to be the offense to his personal dignity and self-esteem implicit in the overbearing attitude of the white man towards the Chinese. It is an inferiority complex which under the stress of an almost nation-wide excitement prompts him to a hysterical self-assertion that is subjective rather than objective, and that involves antiforeign feeling only indirectly and as an incident to the assertion of self.

5. This feeling has been further complicated by the fact that thinking Chinese are aware of the failure they are making in the organization of their national life and morbidly conscious of the poor showing that they have made in the eyes of foreign nations. It is especially true of Chinese human nature that it flinches from recognition of its own deficiencies and by an instinctive subconscious process seeks excuses in the action of others. It is natural and easy for the Chinese to gloss over the miserable political conditions which they realize and resent by reference to such catchwords as *unequal treaties* or *foreign imperialism*.

6. Under the impulse of this passionate determination no longer to be "looked down upon" there seems to be coming about a further change in the attitude of the Chinese towards their obligations. It is unfortunately true that for several years they have been growing more lax and indifferent towards such standards of honesty and responsibility as used to be traditional in this country. That was a negative attitude however; now there is apparent a tendency towards positive repudiation of obligations. Not only the professional radicals . . . but even certain sober and conservative elements appear to be drifting into a state of mind that takes it for granted that treaty obligations must be repudiated as incompatible with the sovereignty and dignity of the nation. Even Hsiung Hsi-ling, once Prime Minister under Yuan Shih-kai, has argued to me that China could not take part in the Special Conference or the Commission on Extraterritoriality as such participation would be an acknowledgement of the right of powers to dictate to China in the matters involved. In the course of our conversation he was altogether frank in acknowledging that China would not for instance be capable now

or in the proximate future of fulfilling the judicial functions that would devolve upon her if we were to give up extraterritoriality. But despite this admission he insisted that this inequality in the treaties must be adjusted by China without regard to the pretensions of the powers.

7. A less radical view was presented to me by Sun Pao-chi, who was Minister for Foreign Affairs under Yuan and more recently Prime Minister. He came apparently at the instance of the Minister for Foreign Affairs to whom I had taken occasion to say that we stood upon the provisions of the Washington Conference as affording the means to make progress towards the realization of China's aspirations in the matter of customs and extraterritoriality. Sun urged that the Washington Conference decisions which have been in abeyance for three years and more mean nothing to the radical element whose opinions the Government is not in a position to ignore; and that to strengthen the position of the Government against them the powers in their replies to the Chinese Government's notes of June 24^a should at least hold out hopes of a new conference within a year to reconsider the revision of the whole treaty relationship between China and the powers. He was quite candid in making clear the view that this suggestion was designed merely to save the face of the Government and that he did not urge that the powers really go very far in making actual concessions; he seemed to feel that it was more important that the powers should make some sort of an avowal of respect for China's dignity as a nation even though he acknowledged himself very little concerned with the material extent of any such concessions as might be made.

8. Such expressions of views dispose me to feel that in the present agitation for treaty changes the dominant motive is not a dissatisfaction with the treaties themselves so much as it is a manifestation of discontent with a sense of inferiority which the Chinese have come to feel is symbolized by the special provisions in the treaties. The more intelligent of the Chinese know that those provisions of the treaties arose out of conditions which have scarcely been appreciably modified since then, and that any radical change in them at the present time would seriously jeopardize foreign trade which is now more than ever necessary to their normal economic development, and would induce disputes and difficulties in China's relations with the foreign powers. Even some of the more radical Chinese with whom I have talked have shown themselves aghast at the suggestion that tariff autonomy for which they clamor would put enormously increased revenues into the hands of whichever military faction might happen at the time to be in control of Central Government. The

^a See telegram No. 247, June 24, from the Chargé in China, p. 763.

great bulk of the agitators doubtless do not know what it is that they are asking for in demanding abolition of unequal treaties. The treaty provisions are obnoxious to them not because of what those provisions actually mean but because they seem to represent a stigma of inferiority or afford a convenient political slogan.

9. I present these observations not with any idea of decrying what is genuine and to be respected in the aspirations of the Chinese people but to bring to the attention of the Department the unrealities of the present situation with respect to the Chinese political demands which must in my opinion be treated on a psychological basis rather than from the standpoint of strict logic or of systematic political concept. It is not easy in such a turmoil of nationalistic feeling to determine what is essential and what is incidental. Yet a substantially correct determination must be made if the concessions we are prepared to make are actually to serve the real needs of this people and of our own.

10. Repeated by mail to Tokyo.

MACMURRAY

793.00/101 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 28, 1925—2 p. m.

170. Your 292, July 27, 5 P. M.

Paragraph 3. Phraseology of your suggested change I think too indefinite and might lead to the opinion that we have no serious intentions of considering the whole subject of tariff revision. In view of Department's No. 125 of July 1, noon, it seems to me that present language is clear and expresses our real intentions. If you are convinced, however, that the words "looking toward ultimate tariff autonomy" are very objectionable I would prefer to omit them rather than to use the indefinite language which you propose. The phrase "comprehensive revision" was used deliberately to include the idea contained in the following passage which I quote from a note, No. 683, of July 7, summarized to you in Department's 142 July 9, 3 P. M.:^{*} "The Powers further hope that the tariff conference will be but the first step in a comprehensive revision of the treaties which they express their willingness to undertake at the earliest opportunity."

Paragraph 4. I approve substitution of word "safeguards" for word "sanctions."

Paragraph 6. I approve your proposed action.

KELLOGG

^{*} Telegram No. 142 not printed; for note No. 683 of July 7 from the British Chargé which it summarized, see p. 776.

793.00/105 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 29, 1925—8 p. m.

[Received July 29—3:35 p. m.]

300. Your telegram number 170 July 28, 2 p. m. 1. I feel very strongly that phrase "tariff autonomy" ought not to be used [garbled group]. As the sentence is phrased the omission suggested by you would seem to imply opening Special Conference for the reconsideration of all treaty matters including such questions as missionary rights and the surrender of concessions and leased territories which the interested powers would not of course consent to discuss. To make your meaning entirely definite might I not substitute the words "treaty provisions dealing with customs duties" for "looking toward ultimate tariff autonomy."

MACMURRAY

793.00/109 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, July 30, 1925—11 a. m.

[Received 1:15 p. m.]

301. Legation's 263, July 5, 1 p. m. and 275 [277?], July 16, 9 p. m. Your 157, July 18, noon.

1. I had a conversation July 27 with the Japanese Minister in the course of which he inquired as to my views on proposed American-British-Japanese cooperation. In somewhat general terms I expressed our desire for harmonious action in the sense indicated in my telegram of July 16, 9 p. m., second paragraph.

2. Yoshizawa then told me that he specifically hoped the representatives here of the three powers would cooperate to facilitate a solution of the Shanghai situation. He said that his Government has been dissatisfied at the unwieldiness of the diplomatic corps as an instrument for conducting negotiations with the Chinese Government, and that it would like to establish such close working relations between the American, British, and Japanese Legations that this group could take the lead in giving coherence and direction to the action of the diplomatic corps.

3. We frankly discussed the difficulties arising in every endeavor to secure efficient and practical action by the diplomatic corps, due to the punctilios and theorizings of representatives of certain countries having negligible interests in China. We were in complete agreement as to the need of more definite leadership by those powers having the

greatest responsibilities and interests. I took the liberty of assuring him that my Government would gladly have me fully cooperate with the British and Japanese for that purpose while agreeing with him that we should be careful to avoid giving offense to representatives of other powers by seeming to constitute a cabal against them. Yoshizawa informed me that the British Chargé had given him to understand that the British Government was favorable to the Japanese suggestion.

4. Except for saying that there was particular need for good understanding among the three powers in view of the critical situation in China, Yoshizawa gave no indication at all that his Government contemplated more general cooperation. I rather think that the particular object which he stated is really the only immediate object of the Japanese Government, although probably it wishes gradually to develop and extend American-British-Japanese cooperation. Very likely the more general suggestions made to Mayer, reported in his telegram 263, July 5, 1 p. m., were in the nature of a trial balloon to find out how far we are ready to go along with the Japanese Government.

5. As I felt that the present purpose of the Japanese Government in this matter has dwindled down to relatively narrow limits, I delayed making a report until I should have a chance to see whether the British Chargé would take up the subject with me. I had a long conversation with him yesterday chiefly about the Shanghai affair and he did not refer to the Japanese suggestion although I remarked that I had discussed your draft reply to the Chinese note of June 24 with Yoshizawa. My conclusion is that the British do not attach any great importance to the Japanese suggestion.

6. Copy of this telegram is being mailed to Tokyo.

MACMURRAY

793.00/105 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, July 30, 1925—1 p. m.

173. Legation's telegrams 293, July 28, 9 a. m. and 300, July 29, 8 p. m. It is not my desire that the joint note or, if there should be no agreement upon a joint note, any note sent separately by us should be restricted in such a manner as to give to China the impression that we are not in good faith genuinely willing to give consideration to the matter of tariff revision but intend that the discussion be confined to the increasing of particular rates under the Conventional Tariffs. The United States is ready to give consideration to the

entire matter of treaty revision in regard to tariffs and all other subjects to the extent that they concern us. I fail to understand the reason for the unwillingness of the British to participate in a joint note that is as broad as the British proposal concerning treaty revision as set forth in their No. 683 of July 7, quoted in the Department's telegram No. 170, July 28, to the Legation. In the event that we have to send a separate note, it should not be limited to the tariff. In case you are strongly of the opinion that it is very inadvisable to use the words "tariff autonomy", the words "looking toward ultimate tariff autonomy" may be omitted by you, inserting the words "dealing with the entire subject of the tariff" in the joint note. If, however, a separate note is sent by us, the words "looking toward ultimate tariff autonomy" should be omitted and nothing more.

KELLOGG

798.00/111

The British Chargé (Chilton) to the Secretary of State

No. 723

MANCHESTER, MASS., July 30, 1925.

[Received August 1.]

SIR: I have the honour to inform you, with reference to your note of the 23rd instant dealing with Chinese affairs, that His Majesty's Representative at Peking has been notified that the United States Government have drafted an alternative text for the reply to the Chinese note of June 24th last, and that this text has been cabled to the United States Minister with instructions to consider it with his British and other Colleagues. At the same time Mr. Palairet has been informed that the American draft differs so radically both in form and substance from the Anglo-Japanese text that in the opinion of His Majesty's Government there is small possibility of your being disposed to accept the latter, although both the French and Italian Governments have now agreed to it. In the circumstances, Mr. Palairet has been authorised to discuss the two texts with Mr. Mac-Murray and his other Colleagues in the hope of combining both in a new agreed text which, however, is to be submitted to His Majesty's Government for approval before communication to the Chinese Ministry for Foreign Affairs.

In order to assist Mr. Palairet in his deliberations, he has been informed that His Majesty's Government disapprove the statement in the American draft reply that the extraterritorial Commission will be instructed to make recommendations to enable the Powers to consider what steps may be taken for relinquishing their extraterritorial rights, inasmuch as my Government feel that the Com-

mission should be allowed to make such recommendations as may appear to them desirable without any lead from the Powers. His Majesty's Representative at Peking has further been informed that the statement in the American draft that the revision of treaties should contemplate ultimate tariff autonomy seems both gratuitous and likely to encourage Chinese pretensions unnecessarily. Mr. Palairret, moreover, has not been left in any doubt that, in the opinion of His Majesty's Government, the general tone of the Corps Diplomatique's reply should be less encouraging to the Chinese than in the American text, and it is felt that phrases such as "constant and sympathetic interest" of the United States Government towards the anticipated treaty move, and "gratification at progress in the improvement of the Chinese judicial system", etc., should be omitted from the communication in question.

In reminding Mr. Palairret that the original object of the Powers' declaration was to warn the Chinese Government that the former stand by the Washington principles and are not to be coerced into further concessions, he has been informed that His Majesty's Government would like particularly to retain the passage included in the Anglo-Japanese draft reply referring to strikes and agitations.

I have [etc.]

H. G. CHILTON

793.00/123a : Telegram

The Secretary of State to the Minister of China (MacMurray)

WASHINGTON, August 1, 1925—3 p. m.

180. The Japanese Ambassador called upon me yesterday and stated with reference to the draft note communicated to you with Department's 165 July 23, 3 p. m., that his Government understood that this Government was not only ready to appoint its delegates to the Special Conference on Chinese tariff matters, but was furthermore prepared to accept any reasonable proposal for extending the scope of that conference and also to take up, either at the Tariff Conference or at a subsequent time, the subject of a comprehensive revision of the treaties looking toward ultimate tariff autonomy. He stated that the Japanese Government is inclined to believe that in the Powers' reply to the Chinese note, it would be safer and wiser to mention only those matters, which they are convinced, are possible of realization and not to refer to those pertaining to the extension of the scope of the Tariff Conference, much less to that of tariff autonomy. He said that the Japanese Government believe that to make reference at this juncture in the Powers' note to China to a matter which cannot be confidently expected to be realized is to give a false hope to the Chinese people and bring about confusion. He said that the Japa-

nese Government was therefore constrained to take exception to the American proposal to make reference in the Powers' note to China to the questions of extending the scope of the Tariff Conference and also of tariff autonomy.

I explained to the Japanese Ambassador that I was very definitely of the opinion that the reply which should be made to the Chinese Government at this time should be so cast as to show the willingness of the Powers to discuss any matters, even including the question of tariff autonomy, which might be brought up at the time when the conference meets. I stated that in my opinion in the present condition of public sentiment in China and in view of the kind of agitation that was going on that no conference on tariffs simply limited to the exact terms of the Nine-Power Treaty could be expected to meet the situation. I stated that I have felt that there must be a willingness of all the Powers to meet China and to discuss the entire tariff situation. I stated that I was not insisting on the use of the precise words "tariff autonomy" necessarily but said that the wording of the note should be so phrased as to cover tariff autonomy should it be advanced as a question. I read to him that portion of Department's No. 173 of July 30, 1 p. m. in which you were authorized to substitute for the term "looking toward ultimate tariff autonomy" the words "dealing with the entire subject of the tariff" and stated that I hoped that this phraseology would meet the objections which the Japanese Government had to the use of the other term.

I stated that the phraseology in our proposed draft regarding the broadening of the scope of the conference was based on the language of the British proposition referred to in Department's 170 of July 28, 2 p. m.

I hope that you will not fail to make it clear to your colleagues that this Government for its part is ready and willing to do just what it says it will do in the draft note communicated to you in Department's 165, and that it is not willing to join in any identic replies which would not indicate that willingness.

KELLOGG

793.00/114 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 1, 1925—9 p. m.

[Received August 2—2:15 p. m.]

306. Your telegram number 165, July 23, 3 p. m.

1. Except as the Department might instruct me otherwise, in view of what follows, I shall amend draft reply to the Chinese Government as authorized by your 170, July 28, 2 p. m., and 173, July 30, 1 p. m.

2. The latter telegram reached me while in conversation with the Japanese Minister, who called yesterday evening to read me a copy of a telegram by which his Government instructed Matsudaira to explain to you the difficulty which the Japanese Government finds in assenting to the American draft insofar as it conveys a formal promise to consider tariff autonomy at the Special Conference. As the Japanese Ambassador will no doubt make clear, his Government feels that tariff autonomy, on the removal of all conventional restrictions upon the tariffs leviable by the Chinese Government, is a theoretical desideratum scarcely possible of realization in connection with the Special Conference, and that we should at least be cautious in holding out hopes of accomplishing what may or may not prove feasible—the more so as concession on this point, in advance of any practical experience beyond the strikes and boycotts which the agitators have inaugurated with a view to forcing their point, might tend to encourage and sanction such methods and even justify and make possible the use of tariff discriminations as a means of influencing future negotiations between China and the powers.

5. Japanese Minister said that this introduction into our draft note to the Chinese Government (which of course means full publicity) of our willingness to consider tariff autonomy was a surprise to his Government; and he added Shidehara had asked him whether I would not be willing to convey to you my personal opinion on the question.

6. I trust the Department will not misunderstand my saying that, since this further development of its views in the matter of the Chinese tariff, I have felt a mental reservation on this particular point. Conceding theoretical rightness of the Chinese tariff autonomy, I frankly acknowledge my doubts of the tactical expediency of making public avowal of the willingness to adopt that theorem at a moment when we are being argued and bullied into accepting it by a radical group which has no real faith in its own propaganda and would resent it if we granted their demands under circumstances which gave the advantages of this concession to any of the several military cliques which are likely to profit by it. . . . Either way the kaleidoscope falls, the majority of agitators would feel that we foreigners had backed the party momentarily in power. I venture to refer to my telegram 293, of July 28, 9 p. m. [*a. m.*]. About the whole of the present agitation is an unreality which makes it likely that action taken in Washington on sound abstract basis would locally appear to be a means of foreign support of Tuan or some favored successor in the same way that the Japanese support[ed] him in 1917 and 1918.

7. I have therefore ventured to tell my Japanese colleague that I would be willing to convey to you . . . an explanation of my per-

sonal view that it would not be tacitly [*tactically?*] sound to announce publicly at this time that we are prepared to go beyond the terms of the Washington Conference provisions lest we should thus prejudice the possibility of our restraining the importunities of artificially formed unions of coolies and school boys who are organizing to uphold diplomatic relations of the Government.

8. . . . Seeking, however, to detach myself from any preconceptions that antedated a first-hand experience of the abnormal Chinese reaction to the Shanghai incident of May 30th I cannot but acknowledge (if the Department desires my frank opinion) that it would be wiser to adhere literally to the provisions of the Washington Conference and let any developments therefrom be recommended by the Special Conference, rather than anticipate them at this time when even the most reasonable concession is liable to be interpreted as an abdication on principle of rights which we possess and ought not to surrender except upon adequate assurances of at least an honest effort to extend to our interests the treatment that one civilized government accords to the citizens of another. That is not now the case and I foresee no possibility of its being the case so long as China continues to be a congeries of competing military factions. We are in fact dealing not with a government but a simulacrum, which there are certain obvious political conveniences in recognizing. To go beyond the letter and beyond the spirit of our Washington treaty obligations in recognizing the hypothetical sovereignty of that government is not only to exceed what I recall as the purposes of the Washington Conference but also to encourage a spirit of irresponsibility with which even the soberest Chinese have recently been infected through various Bolshevik and juvenile nationalistic influences.

9. If the Japanese Government finds it of importance to make an issue on the question of Chinese tariff autonomy, as to which I felt warranted in conveying as personal opinions certain theretofore accepted views of the Department, I candidly think it would be worth while agreeing with the Japanese rather than insisting upon taking a separate and probably isolated position on this issue.

10. Japanese Minister expressed to me his Government's hope that I would not distribute among interested colleagues our draft reply to the Chinese Government until some agreement had been reached among channels of Japanese and American Governments. In order not to preclude possibility of agreement among those three Governments, which I judge important for the purpose in view, I am withholding communication of your draft to my colleagues until I hear further from you. I urgently request instructions.

MACMURRAY

798.00/114 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, August 3, 1925—5 p. m.

181. Your 306 August 1, 9 P. M. Department's 180 of August 1, 3 P. M. covers conversation which Japanese Ambassador had with me on July 31, evidently in response to his Government's instructions mentioned in paragraph 2 of your telegram.

. . . In any case, the Japanese Government should have been prepared for this Government's views as Tokyo's 118 of July 1, 4 P. M.¹⁸ indicates that you expressed the opinion that "the present situation in China makes it necessary for the special economic conference to assume a position a little beyond the scope of the conference in order to reestablish Chinese confidence." As stated to you in Department's 170, July 28, 2 P. M. the British Embassy here communicated to the Department the text of a proposed declaration which the British Government desired to use as the basis for an identic expression on the part of the Powers of their attitude toward the Chinese proposals, the opening sentences of which I now quote more fully:

"The Washington Customs Treaty provided for the early convocation of a conference at which by the agreement between China and the Nine Powers certain economic measures should be adopted for the benefit of China as a whole. The spirit animating the Powers remains today what it was then. Various subsequent changes in the situation which have delayed the meeting of a conference have not affected the original intentions of the Powers; on the contrary, they have confirmed these intentions whilst the Powers themselves consider that the objects of the Washington Conference are to fulfill an agreement to be reached at the Tariff Conference which will require to be of a more far-reaching and comprehensive nature than was originally contemplated. The Powers further hope that the Tariff Conference will be but the first step in a comprehensive revision of the treaties which they express their willingness to undertake at the earliest opportunity."

British viewpoint was adopted in preparing Department's draft of proposed reply as this Government was and is ready to extend the scope of the conference beyond that originally intended by the treaty. You should know that British Government submitted its views also to Japanese Government and that Japanese amendment of British proposal omitted all reference to extension of scope of conference. It would therefore seem that Shidehara, finding British Government and this Government ready to extend the scope of the Conference, is endeavoring as a last resort to bring about a re-

¹⁸ *Post*, 836.

consideration of this matter on the part of this Government by referring to your conversation in Tokyo expressing views held by the Department prior to consideration of Chinese proposals of June 24.

I have just received a note from British Embassy¹⁴ informing me of instructions which the British Government have communicated to their Chargé in Peking for his guidance in discussing with you American draft. The note states, *inter alia*, that British Chargé has been "informed that his Majesty's Government disapprove the statement in the American draft reply that the Extraterritorial Commission will be instructed to make recommendations to enable the Powers to consider what steps may be taken for relinquishing their extraterritorial rights, inasmuch as my Government feel that the commission should be allowed to make such recommendations as may appear to them desirable without any lead from the Powers." You should point out to British Chargé that language of American draft states that this Government desires to instruct its commissioner to include in his report recommendations based upon the findings of the commission which will enable the Governments concerned to consider "what, if any, steps may be taken" and not "what steps may be taken." The British note also objects to the use of the term tariff autonomy. This objection will be met, it seems to me, by alternate phraseology mentioned in Department's 173 of July 30, 1 P. M. British note also objects to the use of phrases such as "constant and sympathetic interest" and "gratification at progress in the improvement of the Chinese judicial system." I have no objection to the omission from the text of draft reply of the clauses "and has watched the growth of that sentiment with constant and sympathetic interest," "sympathetically and hopefully [*helpfully?*]" and "it has been gratified to note the progress that has been made in this connection."

With reference to paragraph 10 of your telegram you should know that text of Department's draft reply has been communicated to all of the Powers party to the Washington Conference and to those Powers who have indicated their adherence to Resolution No. 5. They were told that this draft was to be used by you as a basis for discussing the Powers' reply to Chinese Government's policies of June 24.

KELLOGG

¹⁴ Note No. 723 of July 30, p. 805.

798.00/117 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

Tokyo, August 4, 1925—10 a. m.

[Received August 4—9:11 a. m.]

142. Your 92, July 23, 3 p. m., received via Peking,¹⁵ July 27, communicated to Foreign Office.

In conversation the Vice Minister for Foreign Affairs stated that he felt sure that the Japanese Government were not prepared to go beyond the terms of the Washington Conference for the present in any discussion with the Chinese Government. The ideas of tariff autonomy and revision of the treaties were capable of such broad interpretation and had been the subject of so much irresponsible comment that the Japanese Government did not see how a reference to them would serve any good purpose at the present time. Besides these questions had been deliberately excluded from the settlements made at Washington and the Japanese could not see any good reason for bringing them up again.

He then reiterated that the Japanese wished above all things to work in conjunction with the British and ourselves in meeting the present situation. The Washington Conference provided a basis upon which all agreed. What was necessary now was the carrying out of existing treaties and not the assumption of new obligations. Japan has always been ready to do her share towards making the Washington engagements a reality, and would be prepared to consider on their merits any germane proposals that might be made in the course of the Customs Conference or in the work of the Extra-territorial Commission. But Japan would not consider it wise [to] go beyond the terms of present engagements in replying to the Chinese note. He added that the Japanese Government hoped that this reply to the British note did not indicate an alteration in point of view from that set forth in our last communication to the Japanese (Department's 88, July 14, 11 p. m.¹⁶).

I replied that while I was not at liberty to discuss the China situation I should of course inform my Government of the Japanese attitude as he had stated it.

Repeated to Peking.

NEVILLE

¹⁵ See footnote 4, p. 797.

¹⁶ See footnote 88, p. 780.

793.00/121 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 5, 1925—noon.

[Received August 5—9:25 a. m.]

311. Your telegram number 181, August 3, 5 p. m.

1. From a conversation which the British Chargé d'Affaires had with me yesterday in pursuance of the instructions referred to in your telegram I infer that the British Foreign Office is concerned less with the substance of our draft note than with the relative emphasis placed in it upon our willingness to accede to Chinese wishes to the point of subordinating the emphasis upon China's responsibilities.

In order to meet what I understand to be the British views, I would suggest the modifications below.

2. Latter part of fourth sentence, first paragraph, of draft might be made to read:

"The Government of the United States desires to impress upon the Chinese Government the necessity of giving concrete evidence of its ability and willingness to enforce respect for the safety of foreign lives and property and to suppress disorders and antiforeign agitations which embitter feeling and tend to create conditions unfavorable for the carrying on of negotiations in regard to the desires which the Chinese Government has presented for the consideration of the treaty powers."

This language is in part suggested by that of your note of the 24th [23rd?] to the British Embassy.

3. The last two sentences of draft note might be replaced by the following:

"My Government is now ready to appoint its commissioner to sit with the commissioners of the other interested governments in accordance with that resolution. It hopes that that commission may be able to begin at an early date its investigation into the existing conditions of the administration of justice in China, and to make a report which will serve as a basis for the recommendations to be made, in pursuance of the resolution, for the purpose of enabling the governments concerned to consider what, if any, steps may be taken with a view to the relinquishment of extraterritorial rights."

4. If these modifications are acceptable to you I suggest that you inquire through the Embassy at London whether they would with other amendments already approved bring the British Foreign Office to adopt our draft.

MACMURRAY

793.00/111

The Secretary of State to the British Chargé (Chilton)

WASHINGTON, August 5, 1925.

SIR: I have the honor to acknowledge the receipt of your note No. 723 of July 30, 1925, which is a reply to my note of July 23, dealing with Chinese affairs. The substance of the British Government's comments upon the suggested draft which I communicated to you in my note of the 23rd instant has been communicated to the American Minister at Peking by telegraph. It seems necessary however to invite your attention to what appears to be a misinterpretation on the part of the British Government of the text of the American draft, for I note that the British Chargé at Peking has been informed that the British Government disapproved the statement that the extra-territorial commission "will be instructed to make recommendations to enable the Powers to consider what steps may be taken for relinquishing their extraterritorial rights". You say that the British Government feels that the Commission "should be allowed to make such recommendations as may appear to them desirable without any lead from the Powers." I think that if you will read carefully the draft quoted in my note of July 23, more particularly that part of the text thereof which appears on page 11,¹⁷ you will observe that this Government's proposed draft states "it is prepared to instruct its commissioner to join his colleagues in including in their report recommendations based upon their findings which will enable the governments concerned, to consider what, if any, steps may be taken with a view to the relinquishment of extraterritorial rights". I feel that thus phrased the sentence is all inclusive and does not carry, as the British Government seems to believe, any intention on the part of this Government to give any direction to its Commissioner other than this Government's desire that he consider the question and give to it his views. This Government desires to examine any proposition which the Chinese Government wishes to make regarding the abolition of extraterritorial privileges and then decide, on the basis of the recommendations made by its Commissioner, what, if any, steps may be taken to meet the Chinese proposal.

I note that the British Government is of the opinion that the general tone of the reply which is to be made by the Corps Diplomatique should be less encouraging to the Chinese than in the American text, and that it objects to such phrases as "constant and sympathetic interest" of the United States Government towards the anticipated treaty move, and "gratification at progress in the improvement of the Chinese Judicial system". Instructions have been sent to the

¹⁷ This reference is to the last sentence of the note.

American Minister in Peking to the effect that I have no objection to the omission of these words from the note, if the British Government finds it impossible to use phraseology of a similar character.

Accept [etc.]

FRANK B. KELLOGG

793.00/139b

The Secretary of State to the British Chargé (Chilton)

AIDE-MEMOIRE

Confirming his conversation with Mr. Chilton on the 5th instant the Secretary of State informs him that the American Ambassador at London was instructed yesterday¹⁸ that desiring to meet the British point of view regarding the text of the proposed reply to the Chinese Government's proposals of June 24, quoted to Mr. Chilton in Department's note of July 23, 1925, the Department has authorized the American Minister at Peking to make the following changes in that text.

In the first paragraph he has been authorized to omit the phrase "sympathetically and helpfully" and to amend the latter part of the fourth sentence of the first paragraph to read

"the Government of the United States desires to impress upon the Chinese Government the necessity of giving concrete evidence of its ability and willingness to enforce respect for the safety of foreign lives and property and to suppress disorders and anti-foreign agitations which embitter feeling and tend to create conditions unfavorable for the carrying on of negotiations in regard to the desires which the Chinese Government has presented for the consideration of the treaty Powers".

In paragraph two the words "irregular, arbitrary" are to be substituted for the words "unusual, abrupt".

In paragraph four the American Minister has been authorized to omit the sentence "it has been gratified to note the progress that has been made in this connection".

In paragraph five he has been authorized to substitute the words "dealing with the entire subject of the tariff" for the words "looking toward ultimate tariff autonomy".

In paragraph six he has been authorized to substitute for the word "sanctions" the word "safeguards". In this paragraph he has also been authorized to substitute for the last two sentences the following

"My Government is now ready to appoint its commissioner to sit with the commissioners of the other interested Governments in accordance with that resolution. It hopes that that commission may be

¹⁸ Telegram of August 5; not printed.

able to begin at an early date its investigation into the existing conditions of the administration of justice in China and to make a report which will serve as a basis for the recommendations to be made, in pursuance of the resolution, for the purpose of enabling the Governments concerned to consider what, if any, steps may be taken with a view to the relinquishment of extraterritorial rights".

The American Ambassador at London has been instructed to communicate the above amendments to the British Foreign Office and to state that it is hoped that with these amendments the British Government will find itself able to accept the American draft and so instruct its Chargé at Peking.

WASHINGTON, August 6, 1925.

793.00/129a : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, August 7, 1925—2 p. m.

193. Department's 165, July 23, 3 p. m. The following comments, other than those reported to you as coming from British and Japanese Governments, on the American draft of note have been received:

On July 28 the American Embassy at Brussels reported¹⁹ the receipt of note from Foreign Office stating that the views of the Belgian Government were in accord with those of the United States. The note stated that the Belgian Government considered it extremely opportune to call together, as soon as possible, a conference for the revision of the customs tariff and the abolition of likin and to convoke at the same time a commission of inquiry on the subject of extraterritoriality. The Belgian Government also stated that it believed that, if the Governments should inform the Chinese Government, without delay, of their decisions in principle and of the intentions of the Western Powers to treat the problems which would be raised at these conferences in the widest and most generous spirit, such action could not fail to produce in China a relaxation of tension.

The American Legation at The Hague reported on July 28¹⁹ that the Acting Minister for Foreign Affairs had informed it that the Dutch Government was in complete accord with the American draft, that it desired an identic note to be sent to the Chinese Government.

On July 31 the American Embassy at Rome reported¹⁹ that it had received a note from the Italian Foreign Office to the effect that the Italian Government agreed in principle with the essential

¹⁹ Telegram not printed.

points of the American draft. The note of the Italian Government stated that:

"The Royal Government is disposed to lend its willing collaboration with a view to calling the conference for the augmentation of the Chinese tariff as well as the Commission on Extraterritoriality."

The Italian Government indicated that in the course of the Conference account must be taken of the financial and economic obligations previously assumed by China toward one or the other of the Powers.

On July 18 the American Embassy at Paris reported²⁰ that the French Minister at Peking had been instructed to promote the following ideas:

"1. No discussion of principle bearing on the conventional rights of the Powers can be accepted before the complete reestablishment of order.

"2. Such a revision cannot be envisaged except in so far as the Chinese Government conscious and mindful of its responsibilities will seem to be in a position to assume effectively the obligations which are incumbent upon a sovereign state for the protection of foreigners throughout entire territory of a thoroughly open China.

"3. As soon as the reestablishment of order is effected the conference for the revision of the customs can be evoked at once.

"It will be given power to examine, after the accomplishment of its normal task, the conditions under which China will be able to obtain gradually in the future new customs agencies until it recovers its customs autonomy.

"4. The conditions under which China will gradually be able to obtain the relinquishment of extraterritoriality will be examined before its adjournment by the commission on extraterritoriality naturally qualified for this work."

In a later report of August 6 the American Embassy at Paris stated²⁰ that it had been informed by the Chief of the French Cabinet, Mr. Leger:

"That when the French Government had received the draft declaration proposed by the British prior to the receipt of our text, they had informed the British their text was acceptable suggesting only a slight modification which he indicated had reference to the reestablishment of China's financial credit. He added that they had later received the Japanese draft; that as the differences of opinion involved only the preamble or declaration of principle he presumed these differences would be thrashed out in Peking. Leger further said they considered our draft too mild and liberal in tone; that the British was perhaps too sharp and states that French Government therefore favored the Japanese draft as a good compromise."

KELLOGG

²⁰ Telegram not printed.

798.00/133: Telegram

The Chargé in Japan (Neville) to the Secretary of State

Tokyo, August 11, 1925—3 p. m.

[Received August 11—7:40 a. m.]

151. The Minister for Foreign Affairs today in conversation stated that so far as the Extraterritorial Commission was concerned, he found himself in substantial agreement with the American point of view and had told the British so. In regard to the actual text of the reply to the Chinese note on this point the Japanese Government would have some comments to make as they do not agree entirely with the statement contained in the instructions to MacMurray (Draft 92)²² but they are not differences of principle.

So far as concerns tariff, the Japanese Government would find itself unable to go beyond the terms of existing treaties or the Washington Conference engagements. All the considerations urged in this connection had been brought up at Washington and he did not see that conditions in China warranted any further concessions. Discussion [*Discussion?*] on this point was objectionable for at least two good reasons:

(1) China has no government machinery capable of enacting tariff legislation and a conference that proposed to consider the whole question of tariff would have to consider methods of levying tariffs which would make the conference too complicated and might result in its break-down;

(2) Japan and perhaps other powers, who have large vested interests in China, might find themselves in difficult circumstances if they placed the unfettered right to levy duties in the hands of irresponsible politicians. Japanese opinion would not countenance such action.

In addition to these considerations Japan was confronted with interests of great weight and importance resting on treaty and contractual bases which she would have to take account of. It would be extremely difficult for Japan to reexamine the bases upon which treaty obligations rest. He did not see, therefore, how agreement among the powers would be possible unless all are prepared to co-operate on the only common ground we now have—the Washington Conference. Peking informed.

NEVILLE

²² See footnote 4, p. 797.

793.00/134

The British Chargé (Chilton) to the Secretary of State

No. 738

MANCHESTER, MASS., August 11, 1925.

[Received August 12.]

SIR: I duly telegraphed to my Government the contents of the note which you handed to me at the State Department on the 5th instant on the subject of the situation in China.

I have now been instructed by His Majesty's Principal Secretary of State for Foreign Affairs, to inform you that he agrees with your view regarding the extraterritorial Commission, as explained in that note, and which Mr. Chamberlain understands as being identical with that expressed in the Washington Conference Resolution.

His Majesty's Government have informed their Representative at Peking that the United States Government have submitted a draft on the lines of the former American draft, different in wording and less severe in tone, but embodying all the suggestions made in the instructions sent to His Majesty's Representative in Peking, the substance of which I communicated to you in my note No. 723 of the 30th ultimo, with the exception of that portion which specifically referred to strikes, upon which His Majesty's Government will not insist.

His Majesty's Representatives accredited to the other interested Powers have been instructed to inform the Governments of those Powers of this new United States draft, and to say that it sufficiently meets the point desired by His Majesty's Government.

His Majesty's Representatives above-mentioned have been informed that, in the interests of international solidity, His Majesty's Government would be prepared to adopt this draft as a basis for an identic reply to the Chinese Government, which they are most anxious to expedite and are instructing His Majesty's Representative at Peking to arrange with his colleagues accordingly.

His Majesty's Representatives to the interested Powers are being also instructed to inform the Governments to which they are respectively accredited that His Majesty's Government appreciate the support in this matter rendered by these Governments and to express the hope that they will concur in this further development and send similar instructions to their respective Representatives in Peking.

I am to add that His Majesty's Government would regard it as most unfortunate if the replies of all the Powers were not identical. They regard this as an essential sign of solidity, in the interests of which they are prepared to defer to the United States draft.

I am also to emphasise the fact that His Majesty's Government are most anxious to expedite the reply to the Chinese Government.

I have [etc.]

H. G. CHILTON

793.00/146

The British Chargé (Chilton) to the Secretary of State

No. 753

MANCHESTER, MASS., August 19, 1925.

[Received August 20.]

SIR: In my note No. 738 of the 11th instant on the subject of China I had the honour to state that His Majesty's Government would regard it as most unfortunate if the replies of all the Powers to the Chinese note were not identical, and I added that my Government regarded this as an essential sign of solidity in the interests of which they were prepared to defer to the American draft.

His Majesty's Government now have reason to believe that the Japanese Government may be inclined to question the inclusion of Chinese tariff autonomy in the agenda of the conference to be held in the near future, and that the Japanese attitude may result in a divergence of view between the Powers and consequent further delay in replying to the Chinese note. This being so, His Majesty's Representative at Peking has been reminded that recent developments in China would seem to indicate the use of a movement aiming at the abolition of extraterritoriality and looking to complete fiscal autonomy. This movement, in the opinion of my Government, cannot be ignored and can only be met by a gradual and dignified surrender of treaty rights by the Powers.

As you are aware, His Majesty's Government were originally in favour of indicating their policy, as outlined very briefly above, in their reply to the Chinese note. When, however, the British draft note was amended by the Japanese Government my Government did not adopt a rigid attitude but recommended the Japanese alterations to the United States and other Governments concerned, although His Majesty's Government are still inclined to feel that it would be more advantageous to adopt the course originally suggested. Should the United States and Japan agree to omit all mention of the decision of the Powers to consider helpfully the reasonable and just aspirations of China on the question of tariffs, or succeed in agreeing to a formula of compromise, His Majesty's Government would offer no objection.

Mr. Palairet has had it made clear to him, however, that if no agreement can be arrived at between the Governments of the United States and of Japan, His Majesty's Government would have no option but to decide upon a draft of their own similar, if not identic, with either the Japanese or American. I need hardly add that my Government would regret exceedingly having to take such action, as it would inevitably draw attention to the differences existing among the Powers. This, in the opinion of my Government, would be more

likely to encourage the pretensions of China than a carefully drafted identic undertaking to cooperate in furthering the aspirations of that country.

I have [etc.]

H. G. CHILTON

793.00/146

The Acting Secretary of State to the British Chargé (Chilton)

WASHINGTON, August 22, 1925.

SIR: The receipt is acknowledged of your note No. 753 of August 19, 1925, in which you state that the British Government has reason to believe that the Japanese Government may be inclined to question the inclusion of Chinese tariff autonomy in the agenda of the conference to be held in the near future, and that this attitude on the part of Japan may result in a divergence of views between the Powers and a consequent further delay in replying to the Chinese note. I agree with the views of the British Government that recent developments in China seem to indicate a movement aiming at the abolition of extraterritoriality and looking to complete fiscal autonomy, and that this movement can only be met by a gradual and dignified surrender of treaty rights by the Powers, with particular reference to the Japanese attitude on this question.²³

It gives me pleasure to be able to inform you that on the 20th instant the Japanese Ambassador informed me that the Japanese Government was prepared to accept the modified draft of the reply to the Chinese proposals offered by the American Government, provided the last two sentences of paragraph five could be amended to read as follows:

"To that end the Government of the United States is ready to appoint its delegates to the Special Conference on Chinese tariff matters provided for in the Treaty of February 6, 1922, and is furthermore willing, either at that Conference or at a subsequent time, to consider and discuss any reasonable proposal that may be made by the Chinese Government for a revision of the treaties on the subject of tariff."

This information was transmitted by telegraph to the American Embassy at London on the 21st instant for communication to the British Government. The American proposed draft embodying the

²³ Apparently the last phrase in this sentence was intended to be the opening phrase in the next paragraph.

modifications offered by the British and Japanese Governments now reads as follows:

[Here follows text, the same, except for certain changes in form, as note No. 41, September 4, from the American Minister to the Chinese Minister for Foreign Affairs, printed on page 831.]

This Government is willing to accept the Japanese wording, provided it is acceptable to the other Powers, in the interest of international cooperation, for it believes that this wording leaves the Conference free to entertain any proposals which the Chinese may wish to make. I hope that this will mean that the Powers, through their representatives at Peking, will be able now to reach an early conclusion as to their replies to the Chinese proposals of June 24. I have instructed the American Minister at Peking as to our views in this matter.

Accept [etc.]

JOSEPH C. GREW

793.00/153

The British Chargé (Chilton) to the Secretary of State

No. 766

MANCHESTER, MASS., August 26, 1925.

[Received August 27.]

SIR: I have the honour to refer to your note of the 22nd instant on Chinese affairs and to convey to you an expression of the gratification felt by His Majesty's Government at the agreement reached between the Governments of the United States and Japan in regard to the proposed reply to the Chinese note. While in the opinion of my Government the American draft embodying the British and Japanese modifications is not wholly suitable for an identic note, His Majesty's Representative at Peking has been instructed to confer with his American Colleague with a view to reaching a definite agreement.

I have [etc.]

H. G. CHILTON

793.00/150 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 26, 1925—7 p. m.

[Received August 26—9:35 a. m.]

353. My telegram number 344, August 22, 3 p. m.²⁴

1. Conference with interested colleagues today resulted in personal agreement upon a considerable number of amendments to the text of draft note all of which are matters of mere form. I shall give these amendments in a separate telegram.²⁵

²⁴ Not printed.

²⁵ Telegram No. 358, Aug. 28; not printed.

2. Belgian, British and Dutch representatives were prepared to send amended note without further instructions. Japanese Minister must first communicate amended text to his Government which will doubtless approve, as it has accepted the draft in principle.

3. French, Italian and Portuguese representatives have received no instructions whatever with respect to our draft. I suggest that urgent representations be made to the Governments in question to hasten instructions.

MACMURRAY

793.00/163a

*Statement Issued to the Press by the Department of State, August 31, 1925*²⁶

SPEECH OF THE HONORABLE FRANK B. KELLOGG, SECRETARY OF STATE,
BEFORE THE ANNUAL MEETING OF THE AMERICAN BAR ASSOCIATION,
DETROIT, MICHIGAN, SEPTEMBER 2, 1925

Mr. Kellogg said:

The events in China of the last few months have again brought to the forefront its relations with the other Powers and have made it necessary for the Government of the United States to declare its policy in relation to Chinese affairs. In brief, that policy may be said to be to respect the sovereignty and territorial integrity of China, to encourage the development of an effective stable government, to maintain the "open door" or equal opportunity for the trade of nationals of all countries, to carry out scrupulously the obligations and promises made to China at the Washington Conference, and to require China to perform the obligations of a sovereign state in the protection of foreign citizens and their property.

It is quite impossible in the few moments allotted to me to discuss all the complicated issues involved in the present Chinese situation. I shall, therefore, but briefly sketch the more important, which chiefly concern the conventional Chinese tariffs and the extraterritorial rights of foreign residents in China. The import tariffs, and to some extent the export tariffs, of China are controlled by treaties between China and the various Powers. The first conventional tariff schedule was appended to the first treaty made with Great Britain in 1842;²⁷ the same schedule was added to the first treaty with the United States in 1844,²⁸ and to treaties made with other foreign Powers at later dates.

²⁶ For release after delivery of the Secretary's address.

²⁷ *British and Foreign State Papers, 1841-1842*, vol. xxx, p. 389.

²⁸ Miller, *Treaties*, vol. 4, p. 559.

These treaties have been changed and the rates revised from time to time but the principles involved in the original conventional tariff have remained the same. It has become evident that there is a wide feeling in China that the tariff schedules attached to the various treaties have become a severe handicap upon the ability of China to adjust its import tariffs to meet the domestic economic needs of the country. It must not be forgotten, however, that these tariffs were not adopted as a sinister means of controlling the fiscal policies of the Chinese Government but merely as a *modus operandi* devised to meet and remedy a condition which had become a fertile source of friction in the relations between China and the Powers due to the uncertainties connected with the rates and methods of collecting duties under the then existing tariffs. Schedules of those tariffs were seldom available for the information of foreign merchants, who were hampered in their business by the irregular and arbitrary methods adopted in the assessment and the collection of the duties. It is believed that these conventional tariffs were welcomed not only by the United States and the other Powers but by China as a happy solution of a question which for more than forty years had vexed the relations between China and the other countries.

The last commercial treaty affecting the tariffs between the United States and China was made in 1903²⁹ and various treaties with other Powers were made substantially at the same time. The rates under these treaties have been revised twice since that time.

There seems to be some confusion in the public mind as to just what rights Americans and other foreigners enjoy under the extraterritorial provisions of the treaties with China. I do not have the time to describe in detail the conditions under which foreign merchants lived and carried on their trade in China during the sixty-odd years prior to 1842, the year when immunities as to persons and property, now termed extraterritorial rights, first appeared in a formal treaty between China and a Western Power. It is sufficient for me to say that the account of the relations between resident foreign merchants in China and the Chinese authorities of that period is replete with incidents involving conflicting claims, the foreigner claiming exemption from Chinese law and the Chinese claiming jurisdiction over him and his property. To borrow the language of the *Encyclopædia Britannica*³⁰ as quoted in *Webster's Dictionary*³¹ "extraterritoriality" is defined as a term of international law "used to denominate certain immunities from the application of the rule that every person is subject for all acts

²⁹ *Foreign Relations*, 1903, p. 91.

³⁰ Vol. x, 11th ed., 1910.

³¹ First edition, 1919.

done within the boundary [*boundaries*] of a state to its local laws." Insofar as China is concerned the British Treaty of Nanking of 1842 marks the legalized beginning of the system of extraterritorial rights in China. Extraterritorial rights as applicable to Americans were first defined in the American Treaty of 1844 which stipulates clearly the method by which the extraterritorial jurisdiction of the United States Government was to be exercised. Article XXI of that Treaty reads as follows:

"Subjects of China who may be guilty of any criminal act toward citizens of the United States, shall be arrested and punished by the Chinese authorities according to the laws of China; and citizens of the United States, who may commit any crime in China, shall be subject to be tried and punished only by the Consul, or other public functionary of the United States thereto authorized, according to the laws of the United States. And in order to the prevention of all controversy and disaffection, justice shall be equitably and impartially administered on both sides."

With respect to civil suits, between Americans, or between Americans and citizens or subjects of other non-Chinese States, Article XXV of the same treaty provides:

"All questions in regard to rights, whether of property or person, arising between citizens of the United States in China, shall be subject to the jurisdiction of and regulated by the authorities of their own Government. And all controversies occurring in China between citizens of the United States and the subjects of any other Government shall be regulated by the treaties existing between the United States and such Governments respectively, without interference on the part of China."

As to disputes between citizens of the United States and subjects of China, the same treaty further provides, Article XXIV as follows:

"And if controversies arise between citizens of the United States and subjects of China, which can not be amicably settled otherwise, the same shall be examined and decided conformably to justice and equity by the public officers of the two nations acting in conjunction."

This last provision was made more specific in the Treaty of 1880,²² Article IV, which reads as follows:

"When controversies arise in the Chinese Empire between citizens of the United States and subjects of His Imperial Majesty, which need to be examined and decided by the public officers of the two nations, it is agreed between the Governments of the United States and China that such cases shall be tried by the proper official of the nationality of the defendant. The properly authorized official of the plaintiff's nationality shall be freely permitted to attend the trial, and shall be treated with the courtesy due to his position. He shall

²² Malloy, *Treaties*, 1776-1909, vol. 1, p. 239.

be granted all proper facilities for watching the proceedings in the interests of justice. If he so desires, he shall have the right to present, to examine, and to cross-examine witnesses. If he is dissatisfied with the proceedings, he shall be permitted to protest against them in detail. The law administered will be the law of the nationality of the officer trying the case."

Here, as in the case of the conventional tariffs, the Government of the United States introduced into its treaty with China special provisions, not for the purpose of hampering or otherwise limiting the sovereign rights of a friendly nation, but merely as a *modus operandi* intended to remedy a vexatious condition which had for many years proved what seemed an almost insurmountable obstacle to the maintenance of friendly relations between the two countries. There was not then—and there is not now—any desire permanently to limit the sovereignty of China. Pursuant to these treaties Congress has enacted the necessary laws to enable the American Consuls in China to perform the necessary judicial functions attendant upon the hearing and settling of complaints brought against American citizens by the Chinese. The extraterritorial judicial machinery of the Consular Courts was added to and made more efficient when Congress completed the obligations assumed by the United States and created at Shanghai the United States Court for China which has both original and appellant jurisdiction in cases where American citizens are defendants in China.

In the Commercial Treaty of 1903 between the United States and China, it was agreed as follows: "The Government of China having expressed a strong desire to reform its judicial system and to bring it into accord with that of western nations, the United States agrees to give every assistance to such reform and will also be prepared to relinquish the extraterritorial rights when satisfied that the state of the Chinese laws, the arrangement[s] for their administration, and other considerations warrant it in so doing." Following this treaty there have been a growing demand in China and an agitation for the abolition of conventional tariffs, of extraterritorial rights, and other special privileges enjoyed by foreigners in China. There have been of late years an advance in education and a growing feeling of nationalism to which is largely due the demand for revision of the treaties in these respects.

China, having taken part with the Allies in the Great War, presented these demands at the Versailles Conference, but the Powers declined to consider them, holding that they were outside the province of that Conference. When the Washington Conference was called by President Harding, it included the consideration of certain Pacific and Far Eastern questions, China again asked for a modification of the treaty rights of foreign Powers particularly as regards the

tariff and extraterritorial rights. At that Conference, certain treaties were made: One between the nine participating Powers relating to principles and policies to be followed in matters concerning China and the other between the same Powers relating to the Chinese customs tariff, and a resolution was unanimously adopted in relation to extraterritoriality.³³

In Article I of the Treaty in relation to the principles and policies to be followed in matters concerning China, it is provided that:

"The Contracting Powers, other than China agree:

(1) To respect the sovereignty, the independence, and the territorial and administrative integrity of China;

(2) To provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government;

(3) To use their influence for the purpose of effectually establishing and maintaining the principle of equal opportunity for the commerce and industry of all nations throughout the territory of China;

(4) To refrain from taking advantage of conditions in China in order to seek special rights or privileges which would abridge the rights of subjects or citizens of friendly States, and from countenancing action inimical to the security of such States."

The Treaty in relation to the Chinese tariffs in substance provided for a certain revision of the duties, which has already taken place,³⁴ and for the calling of a special conference on the question of abolition of likin, a local transportation tax in China, and granting in lieu thereof certain additional surtaxes to China. This convention was to be called within three months after the ratification of the treaty by all the Powers. These treaties were made in February 1922. They have been ratified by all the Powers and came into force on August 5, 1925, by the deposit on that day of the ratifications with the Department of State in Washington. Resolution V of the Washington Conference, provided in substance that within three months after the adjournment of the Conference, the participating Powers should establish a Commission, to which each Government should appoint one member, to inquire into the present practice of extraterritorial jurisdiction in China and into the laws, judicial system, and methods of judicial administration of China with a view to reporting to the Governments of the several Powers their findings of fact in regard to these matters and their recommendations as to such means as they may find suitable to improve existing conditions of administration of justice in China and to assist and further the efforts of the Chinese Government to effect such legislation and judicial reforms as would warrant the several Powers in relinquishing, either progressively or otherwise, their respective rights of extrater-

³³ *Foreign Relations*. 1922, vol. I, pp. 276, 282, 289.

³⁴ See *ibid.*, pp. 816 ff.

ritoriality. The appointment of these delegates to the Conference should have been made in May 1922 but China requested a postponement of one year. All the Powers agreed to a postponement but it proved impossible to obtain any unanimity on the part of the Powers as to a new date and no date has ever been fixed. China now asks for the execution of these treaties and resolutions and, in addition, demands that the various Powers take up with China a general revision of the treaties to the end that ultimately the conventional tariff may be abolished and extraterritorial rights given up.

The Washington Treaty between the nine Powers relating to Chinese Customs tariff having been ratified by all the Powers and ratifications exchanged in Washington on August 5, 1925, that Treaty came into force and the Special Conference has been called to meet in Peking on October 26, 1925. The United States has appointed as its representatives John V. A. MacMurray, American Minister to China, and Silas H. Strawn, a lawyer of Chicago. The Treaty provides for a Special Conference to prepare the way for putting into effect the provisions of previous treaties whereby China agreed to abolish likin and the Powers, in return, consent to an increase in the tariff duties. These prior treaty stipulations had not been executed because China had failed to do away with likin. Another of the duties of the Special Conference is to determine the conditions under which a surtax on imports to be imposed pending the abolition of likin is to be levied. In the invitation which China has issued to the Powers for that Conference⁸⁵ which is to take place at Peking on October 26, China recalls the fact that its delegates at the Washington Conference when assenting to the terms which eventually were written into the Washington Treaty, stated at the 17th meeting of the Committee on Pacific and Far Eastern questions of the Washington Conference, that it was not their intention to relinquish their position, but that they intended on all appropriate occasions in the future to bring up again for consideration the desire of the Chinese Government regarding tariff autonomy, and it asks that this matter be favorably considered by the forthcoming Special Conference. I believe that the Powers have all come to the conclusion that the Conference will have to be broadened beyond the strict letter of the Washington Treaty. For its own part, this Government is willing, either at this Conference or at some subsequent time, to consider with China a comprehensive revision of the treaties dealing with the entire subject of the tariff.

China is also demanding the abolition of the privileges of extraterritoriality by foreign Governments. This question of extraterritoriality was considered, as I have shown, in our Treaty of 1903,

⁸⁵ See note of August 19 from the Chinese Minister, p. 839.

where we promised we would give every assistance to China that we could in the reform of her judicial system and be prepared to relinquish extraterritorial rights when satisfied that the state of the Chinese laws, the arrangements for their administration and other considerations would warrant us in so doing. This subject took more concrete form at the Washington Conference, as I have shown, by Resolution V. Under that Resolution, as before stated, it was provided that a special commission should be appointed to investigate the question of extraterritoriality and Chinese laws and judicial system and to make recommendations as to the means they may find suitable to improve the laws and judicial system of China and to assist and further the efforts of the Chinese Government to effect such legislation as would warrant the relinquishment, either progressively or otherwise, by the Powers of their respective rights of extraterritoriality. The United States is willing to take up the subject and examine it and has appointed as its special commissioner for this purpose Mr. Silas H. Strawn, of Chicago, an eminent lawyer, who is also going to participate in the Tariff Conference. This Government is willing through this Commission to examine the whole question of extraterritoriality and desires the Commission to make a speedy report with recommendations upon their findings which will enable this Government to consider what if any steps may be taken with a view to the relinquishment of its extraterritorial rights. I know, in a general way, that within the last few years China has made some progress in the enactment of laws, in reform of her judicial proceedings, in the education of judges and lawyers, with a view to fulfilling her aspirations to be relieved of these extraterritorial restrictions upon the exercise of her sovereign powers. I believe the people of this country sympathize with these aspirations of the Chinese people and that this Government would be willing to give up these extraterritorial rights as soon as China shall demonstrate that her laws and the administration of the laws and judicial system are adequate for the protection of foreign lives and property within China. China has invited commerce and development and, of course, it is her duty as a sovereign nation to fulfill her obligations under the laws of nations and to protect foreigners in their lives and property. I am sure that the United States has always been most desirous to respect and uphold Chinese sovereign rights and the development of a stable government. I know that I have since I became Secretary of State worked earnestly to carry out the provisions of the treaties and resolutions adopted at the Washington Conference with respect to the holding of the Tariff Conference and the appointment of the Commission on Extraterritoriality. Unfortunately the conditions in China have not been such as to further her aspirations in these respects. I shall not attempt,

of course, to review the various changes in government, the fall of the empire and the establishment of the republic, but simply to call attention to the fact that within the last few months, there have been riots and anti-foreign demonstrations which have caused loss of life, not only of foreigners but of Chinese. There has been a recurrence of anti-foreign demonstrations such as has [*have*] not existed since the Boxer Rebellion. The Powers have been compelled to protect their nationals by armed force. I believe the Chinese Provisional Government has made an effort to restrain this anti-foreign hostility and disorders but its efforts have not been completely successful. Nevertheless, I do not believe that these unfortunate conditions should constitute a reason why the United States and the other Powers should not scrupulously adhere to the pledges they made to China in the Washington Conference to meet her in the spirit of helpfulness with the hope that she may realize her ambitions.

These are some of the problems which will have to be settled in the near future, and, for one, I am willing to face them now, to meet the representatives of the Chinese Government frankly and discuss the whole subject. But these conventional tariffs, extraterritorial rights and foreign settlements have come about through treaty arrangements with China under which thousands of Americans and foreigners have taken up their residence and carried on their business within that country. The United States owes to them the duty of adequate protection and the Chinese Government must have a realization of its sovereign obligations according to the law of all civilized nations. In the discussion and settlement of these problems, one of the most difficult questions is whether China now has a stable Government capable of carrying out these treaty obligations. I am very sure that the people of the United States do not wish to control, by treaty or otherwise, the internal policies of China, to fix its tariffs, or establish and administer courts but that they look forward to the day when this will not be necessary.

793.00/162 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 1, 1925—5 p. m.

[Received September 1—7:48 a. m.]

371. My 353, August 26, 7 p. m. All interested representatives having received instructions to send identic replies in the form agreed on by us August 26, the senior minister has now circularized the proposal that the notes be despatched September 4th accompanied by unofficial Chinese translation in the preparation of which Chinese secretaries are collaborating.

MACMURRAY

500.A 4 e/434

*The American Minister (MacMurray) to the Chinese Minister for Foreign Affairs (Shen)*⁸⁰

No. 41

PEKING, September 4, 1925.

EXCELLENCY: With reference to my Legation's note (No. 1094) of June 26th last, I have the honor to inform Your Excellency that the important questions raised in your note of June the 24th have been carefully considered by the Government of the United States which has for some time been aware of the growing feeling in China in favor of a readjustment of Chinese treaty relations with the foreign Powers. It is believed that the Chinese Government does not require to be reminded of the concrete evidence of this interest which has been made manifest on each occasion when a question of treaty revision has occupied the attention of the two countries. The United States is now prepared to consider the Chinese Government's proposal for the modification of existing treaties in measure as the Chinese authorities demonstrate their willingness and ability to fulfill their obligations and to assume the protection of foreign rights and interests now safeguarded by the exceptional provisions of those treaties. It is because of a most earnest desire to meet the aspirations of the Chinese Government that the Government of the United States desires to impress upon the Chinese Government the necessity of giving concrete evidence of its ability and willingness to enforce respect for the safety of foreign lives and property and to suppress disorders and anti-foreign agitations which embitter feeling and tend to create conditions unfavorable for the carrying on of negotiations in regard to the desires which the Chinese Government has presented for the consideration of the treaty Powers.

My Government sympathizes with the feeling of the Chinese Government that the tariff schedules attached to the various treaties between China and other Powers have become a severe handicap upon the ability of China to adjust its import tariffs to meet the domestic economic needs of the country. It must not be forgotten, however, that these tariffs were first inaugurated in 1842 and that they were a *modus operandi* originally devised to meet and remedy a condition which had been a fertile source of friction in the relations between China and the foreign Powers due to the uncertainties connected with the rates and methods of levying the tariffs then existing. Schedules of those tariffs were seldom available for the

⁸⁰ Copy transmitted to the Department by the Minister in China in his despatch No. 141, Sept. 19, 1925. Identical notes were presented to the Chinese Minister for Foreign Affairs by the diplomatic representatives in China of Belgium, France, Great Britain, Italy, Japan, the Netherlands, and Portugal.

information of the merchant, who was hampered in his business by the irregular, arbitrary, and varying methods in the assessment and the collection of the duties. It is the belief of my Government that the conventional tariff was welcomed not alone by the Powers but also by China as a diplomatic solution of what had proved to be a very vexatious question.

Since the conclusion, in 1902 and 1903, of the commercial treaties referred to in Article II of the Treaty relating to the Chinese Customs Tariff, signed on February 6, 1922, my Government has given particular attention to every evidence of effort on the part of the Chinese Government in the direction of fiscal reforms which could be taken as an assurance that the old causes of international friction need no longer be feared and that the conventional tariff could be abandoned.

It was at the time of the negotiation of those treaties that the Chinese Government expressed a desire to reform its judiciary system and to bring it into accord with that of Western nations. The Powers party to those Treaties agreed to give every assistance to such reform and stated that they would be prepared to relinquish extra-territorial rights when satisfied that the state of the Chinese laws, the arrangements for their administration and other considerations warranted them in so doing. The Powers have since then observed attentively each measure that the Chinese Government, during the twenty-two years which have passed, has taken for the establishment of an independent judiciary and the enactment of laws for the administration of justice. The establishment of courts and the enactment of laws, however, do not in themselves meet all the requirements of the situation. Courts cannot function and develop properly or consistently without the aid of a stable Government capable and willing to maintain them and enforce their findings and decisions. It is regretted that the inability of the Chinese Government during the past few years fully to enforce the mandate of its authority has made it difficult for the courts and judiciary already established to function in a normal manner.

The questions of the conventional tariffs and of the extraterritorial rights under which nationals of the treaty Powers reside in China are two of the important questions raised by the Chinese Government's note. Both received consideration at the Washington Conference, and it is the belief of the Government of the United States that the most feasible method for dealing with them is by a constant and scrupulous observance of the obligations undertaken at that Conference. To that end the Government of the United States is ready to appoint its delegates to the Special Conference on Chinese Tariff matters provided for in the Treaty of February 6, 1922, and is furthermore willing either at that Conference or at a subsequent time to

consider and discuss any reasonable proposal that may be made by the Chinese Government for a revision of the Treaties on the subject of the tariff.

Before it can form any opinion as to what, if any, steps can be taken to meet the desire of the Chinese Government in regard to the question of extraterritoriality and those special safeguards of the treaties under which its nationals live and conduct their enterprises in China, my Government desires to have before it more complete information than has heretofore been available: and the most feasible way in which the question can be approached and considered is to send to China the Commission provided for in Resolution V of the Washington Conference, in the expectation that the investigation made by that Commission will help to guide the Treaty Powers as to what, if any, steps should be taken as regards the relinquishment by gradual means or otherwise of extraterritorial rights at that time. My Government is now ready to appoint its Commissioner to sit with the Commissioners of the other interested Governments in accordance with that Resolution. It hopes that that Commission may be able to begin at an early date its investigation into the existing conditions of the administration of justice in China and to make a report which will serve as a basis for the recommendations to be made in pursuance of the Resolution for the purpose of enabling the Governments concerned to consider what, if any, steps may be taken with a view to the relinquishment of extraterritorial rights.

I avail myself [etc.]

J. V. A. MACMURRAY

THE SPECIAL CONFERENCE ON THE CHINESE CUSTOMS TARIFF²⁷

[The minutes of the Conference were published under the title, *The Special Conference on the Chinese Customs Tariff, October 1925-April 1926* (Peking, 1928). With regard to this publication, John V. A. MacMurray, in a letter of April 12, 1929, to Herbert Putnam, Librarian of Congress (file No. 500.A4e/716), wrote as follows:

"You will note that this volume contains no imprint other than *Peking 1928*, and gives no indication of the authority under which it was issued. It is understood, however, that it was compiled and edited, under authorization of the Nationalist Government at Nanking, by one who had been of the Secretariat of the Chinese Delegation to the Special Conference, and more recently associated with the Nanking administration.

²⁷ The powers represented at the Conference were China, the United States, Belgium, Denmark, France, Great Britain, Italy, Japan, the Netherlands, Norway, Portugal, Spain, and Sweden.

The American delegates were John V. A. MacMurray and Silas H. Strawn; the American technical advisers were Mahlon F. Perkins, Stanley K. Hornbeck, and Arthur H. Evans.

Complimentary copies of this volume have been rather sparingly distributed among the foreign Legations here—not by the Nationalist Government but by an official of the Foreign Office acting in his personal capacity.

This is the only published record of the proceedings of the Special Conference, which ended inconclusively in consequence of the breakdown of the internationally recognized governmental authority in China, in April, 1926.”]

500.A 4 e/210 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, April 23, 1925—noon.

[Received April 23—7:26 a. m.]

167. Department's 79, April 20, 3 p. m.³⁸

1. Minister for Foreign Affairs states that according to present calculations, and of course dependent upon French ratification of customs treaty³⁹ which French Minister forecasted to him should take place in about two weeks,⁴⁰ he desires to call Special Conference for September 1st at Peking. Minister for Foreign Affairs seemed in some doubt whether it was for Chinese Government to call the conference.

2. From second paragraph Department's 69, April 6, 11 a. m.⁴¹ and from Department's 79, April 20, 3 p. m., I assume that the Department does not find an obstacle to the convening of the Special Conference or cause for embarrassment in that regard in the fact that the participating powers have not recognized the Chinese Government *de jure*.

3. Special Conference not discussed at meeting of Heads of Legation of April 21st. See my 158, April 17, 6 p. m.³⁸

MAYER

500.A 4 e/210 : Telegram

The Secretary of State to the Chargé in China (Mayer)

[Paraphrase]

WASHINGTON, April 27, 1925—1 p. m.

85. This Government believes that after the customs treaty comes into force following its ratification by the French Government, it would be appropriate for the Chinese Government to issue a call con-

³⁸ Not printed.

³⁹ *Foreign Relations*, 1922, vol. I, p. 282.

⁴⁰ Instruments of ratification of the nine-power treaty relating to the revision of the Chinese customs tariff were deposited at Washington Aug. 5, 1925.

⁴¹ *Ante*, p. 627.

vening the Special Tariff Conference. This Government would be willing to accept the tentative date of September 1, provided that date is also convenient for the other governments which signed or have adhered to the treaty.

KELLOGG

500.A 4 e/225 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

[Paraphrase]

LONDON, July 1, 1925—1 p. m.

[Received 2:35 p. m.]

195. From Perkins.⁴²

1. As a result of my informal talks with Mr. Waterlow,⁴³ it appears that the British Government wholly concurs in the view that it is very important that the Special Conference meet at an early date. I am informed that the opinion which was expressed by Mr. Wellesley⁴⁴ concerning the conference (see Embassy's report No. 1081, January 30, 1925)⁴⁵ does not describe the policy which the British Government now wishes to follow. The British place much importance upon concerted action on the part of America, Japan, and Great Britain, and Waterlow suggests that these powers should inform the Chinese Government that they are ready to hold the Special Conference contingent upon a settlement of the Shanghai affair and the cessation of antiforeign agitation. Waterlow said it was essential that the Chinese should not receive the impression that the action of the powers is the result of pressure or weakness.

2. Waterlow believes the early meeting of the conference of such importance that technicalities should be brushed aside in the event of the French not proceeding to ratify the treaties. He fears that the French may not take early action on this subject.

3. Concerning the constitutionality of the Chinese Government and the question of the possibility of its agreements being repudiated by later governments, Waterlow is willing to short-circuit such matters and to negotiate with the Government as it now exists.

⁴² Mahlon F. Perkins, of the Division of Far Eastern Affairs, Department of State, who had been sent to London to confer with the British Foreign Office regarding the Special Conference for the Revision of the Chinese Customs Tariff.

⁴³ S. P. P. Waterlow, head of the Far Eastern Department of the British Foreign Office.

⁴⁴ Victor Wellesley, Assistant Under Secretary of State in the British Foreign Office.

⁴⁵ Not printed.

4. I am of the opinion that the British Government would be glad to consider any suggestion of the American Government looking toward action as above indicated.

HOUGHTON

500.A 4 c/226 : Telegram

The Ambassador in Japan (Bancroft) to the Secretary of State

TOKYO, July 1, 1925—4 p. m.

[Received July 1—1:45 p. m.]

118. In an informal conversation with Shidehara ⁴⁶ yesterday, Neville ^{46a} and I being present, MacMurray ⁴⁷ stated his general views on the following points:

1. The policy should be a middle course between China's national aspirations and rights of foreign governments under the treaty. The present situation in China makes it necessary for the special economic conference to assume a position a little beyond the scope of the conference in order to reestablish Chinese confidence. It is necessary to find a course between sternly rebuffing the Chinese claims on the one hand and weakening the foreigners' position by allowing the disorders to control the action of the conference.

2. The powers might find themselves in a position where they will have to grant the two and a half percent ⁴⁸ for political reasons even though this might not otherwise be advisable.

3. The purpose of the customs treaty obligates the powers to make the conference a means of abolishing the likin. It may be possible to induce the Chinese to bring into unity the central and local governments. This is worth considering for the good that might be produced and it might impress the Chinese with the need of coming to such an agreement though the conference may be unable to go very far in this direction.

4. The conference will have to decide as to the disposition of the additional two and a half percent if allowed. Hypothetically it is desirable to devote the additional income to internal constructive work but with the large unsecured debts the conference may have to devote the funded increased income to China's unsecured and inadequately secured debts. We think this two and a half percent should be distinguished from customs revenues heretofore allocated as security for the Boxer loans. The British claim the contrary.

5. It is unknown and impossible at present to know whether the two and a half percent will provide revenue for funding the total of these debts and leave some amount for administrative purposes. No plans have yet been worked out and none can be until full data of claims are available. In considering such debts no distinction can justly be maintained between external and internal. Both must be dealt with on the same basis.

⁴⁶ Japanese Minister for Foreign Affairs.

^{46a} Edwin L. Neville, first secretary of Embassy in Japan.

⁴⁷ John V. A. MacMurray, newly appointed Minister to China, en route to his post.

⁴⁸ Surtax provided for by art. III of the Chinese customs treaty, *Foreign Relations* 1922 vol. I p. 282.

6. Debts of Finance Department and of Communications cannot be distinguished because of the fallacious assumption that the railways' earnings are adequate. Due to political conditions we know that they are quite inadequate.

7. Each claim should be established on its individual merits based on the amount actually received by the Chinese Government.

8. While the conference cannot legally act as a judicial body, in practice it may have to do so through full cooperation between the powers.

Shidehara expressed agreement with the general statement of the situation, the proposed treatment of it politically and adjustment of debt claims. He said he knew of some sham debts where no money passed. He suggested a convening of the Extraterritoriality Commission without delay.

MacMurray answered that it seemed they should not sit at the same time because one would be played off against the other and would interfere with the best results and encourage the Chinese to attempt to control the action of each; that it would be better if the Extraterritorial Commission were convened at a fixed date after the completion of the work of the economic conference. Shidehara answered "perhaps that would be the better way of treatment."

As to the British claim that the two and one-half percent should be a part of the customs revenues, which would thus be deposited in certain banks, Shidehara responded "That means that it would go to the custodian bank. I think we might well align ourselves with you on this point."

MacMurray further suggested that the two and a half percent is described as a surtax, the amount, time and disposition of which the conference is specifically authorized to fix and clearly there is no reason for increasing the security of the secured loans.

Shidehara then suggested that an additional two and a half percent would have the effect of a substantial protection to the industries of China and it occurred to him that to be accompanied by this protective feature the powers might propose a countervailing excise tax of two and a half percent on domestic productions for the benefit of the provinces. This would be agreeable to them and might help to induce them to surrender at an earlier date the likin. Shidehara further suggested that an average of seven and one-half percent duty on all imports is very high, as high in fact as the average duty in high tariff countries like the United States—and a 12 percent duty is unheard of. MacMurray suggested that this might raise a number of political and other questions on which we should reserve judgment. While the provinces would be glad to have this additional income, not the surrender of the likin but other means of

increasing revenues might result; and the people might regard this as a further burden attributable to foreign influence.

MacMurray left this morning for Kobe to rejoin his ship for Shanghai. Copy to Peking.

BANCROFT

500.A 4 e/263 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 8, 1925—10 a. m.

[Received 3 p. m.]

320. 1. Minister for Foreign Affairs had me call August 6th for the purpose of discussing questions connected with the Special Conference and urged that its scope should be extended to include question of tariff autonomy which had been reserved by the Chinese delegation at Washington Conference.

2. I told him that I had received from my Government an intimation of its willingness to have Special Conference consider any question which might arise in connection with the tariff; and I took occasion to inform him that you had prepared a draft of a reply⁴⁹ to the Chinese Government's note of June 24th,⁵⁰ in which draft you took a very advanced position on this subject and hoped to obtain acquiescence of the other interested Governments to which you had submitted it.

3. At a meeting of the interested chiefs of mission August 7th, senior minister raised the question of preparing definite agenda in advance of the Special Conference. I said that my own view would favor going into that conference with a program based strictly upon the Washington customs treaty with no attempt to specify in advance relevant matters which we might be willing to consider and that we should leave it for the conference to develop and to obtain authority to deal with such further matters as its deliberations might prove necessary or desirable.

4. Does this meet with your approval? I apprehend that if we attempt in advance of the conference to specify additional subjects which might be considered, we will find ourselves from that time on debating mere generalities and unable to bring the discussion back to the concrete purposes the conference was designed to serve. A communication along the line of your draft reply to the Chinese note of June 24th (your telegram 165, July 23, 3 p. m.)⁵¹ would mean-

⁴⁹ See note of July 23 to the British Chargé, p. 793.

⁵⁰ See telegram No. 247, June 24, from the Chargé in China, p. 763.

⁵¹ *Ante*, p. 797.

while suffice as an indication of our readiness to go beyond the immediate scope of the conference.

MACMURRAY

500.A 4 e/263 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, August 10, 1925—5 p. m.

198. Your 320, August 8, 10 a. m. I approve views set forth in paragraphs 2 and 3 of your telegram. If an identic note along lines of American draft communicated in my telegram No. 165 July 23, 3 p. m.⁵² is adopted this should satisfy Chinese as regards scope of conference and serve as preliminary basis of conference agenda. Otherwise it would be better to go into the conference on the basis of the treaty and leave conference to develop and to obtain authority to deal with such further matters as its deliberations might prove necessary or advisable.

KELLOGG

500.A 4 e/276

The Chinese Minister (Sze) to the Secretary of State

WASHINGTON, August 19, 1925.

SIR: Acting under instructions from my Government I have the honor to transmit to your Government an invitation to a Special Conference relating to the Chinese Customs Tariff from the Chinese Government as follows:

In accordance with Article XI [II] of the Treaty between the United States of America, Belgium, the British Empire, China, France, Italy, Japan, the Netherlands and Portugal relating to the Chinese Customs Tariff signed at Washington on February 6, 1922,⁵³ a Special Conference shall meet in China within three months after the coming into force of this Treaty on a day and at a place to be designated by the Chinese Government with a view to continuing and completing the work of the Washington Conference relative to Chinese Customs questions.

In connection with the said Treaty it may be recalled that on January 5, 1922, at the 17th meeting of the Committee on Pacific and Far Eastern Questions of the Washington Conference, the Chinese Delegation in giving their assent thereto declared that it was their intention to bring up again the question of the restoration

⁵² *Ante*, p. 797.

⁵³ *Foreign Relations*, 1922, vol. I, p. 282.

to China of her tariff autonomy for consideration on all appropriate occasions in the future. In pursuance of the above declaration the Chinese Government proposes that the said question be also brought up at the forthcoming conference and expects some arrangement will be made to remove the tariff restrictions hitherto imposed upon China.

The said Treaty as provided in Article X, thereof, takes effect August 5, 1925, being the date of the deposit at Washington of all the Ratifications of the Treaty. Accordingly the Chinese Government in pursuance of the article referred to above has the honor to state that it intends to have the Special Conference meet on October 26, 1925, at the City of Peking, in which the Government of the United States is hereby invited to participate.

Besides instructing our Legation at Washington to transmit the above invitation to your Government, I have the honor to request that you be good enough to take note of the above invitation and communicate to the Waichiao Pu at Peking the names and titles of the representatives of your Government as soon as possible.

Accept [etc.]

SAO-KE ALFRED SZE

500.A 4 e/276

The Secretary of State to the Chinese Minister (Sze)

WASHINGTON, August 21, 1925.

SIR: I have the honor to acknowledge the receipt of your note of August 19, 1925, in which you invited the attention of this Government to the Treaty between the United States of America, Belgium, the British Empire, China, France, Italy, Japan, The Netherlands and Portugal relating to the Chinese customs tariff, which was signed at Washington on February 6, 1922, and which came into effect on August 5, 1925, by the deposit of all of the ratifications at Washington, as provided for in Article X thereof. You referred to Article II of the Treaty, which provides for the convening of a Special Conference, to prepare the way for the speedy abolition of likin and for the fulfillment of the other conditions laid down in Article VIII of the Treaty of September 5, 1902, between Great Britain and China,⁵⁴ in Articles IV and V of the Treaty of October 8, 1903, between the United States and China,⁵⁵ and in Article I of the Supplementary Treaty of October 8, 1903, between Japan and China,⁵⁶ with a view to levying the surtaxes provided for in these articles; and in which it is further stated that the Special Conference shall be

⁵⁴ *British and Foreign State Papers*, 1901-1902, vol. xov, p. 39.

⁵⁵ *Foreign Relations*, 1903, p. 91.

⁵⁶ *British and Foreign State Papers*, 1902-1903, vol. xcvi, p. 578.

composed of representatives of the Signatory Powers, and of such other Powers as may desire to participate and may adhere to the present Treaty, in accordance with the provisions of Article VIII, in sufficient time to allow their representatives to take part, and that it shall meet in China within three months after the coming into force of the present Treaty, on a day and at a place to be designated by the Chinese Government. You were so good as to inform me that your Government has designated October 26, 1925, as the date of the Special Conference and the city of Peking as the place where it shall meet.

I have the honor to inform you that I have carefully noted the date and place designated by your Government for the meeting of the Special Conference and that the representatives of the United States Government will be prepared to take part in its deliberations on October 26, 1925.

Accept [etc.]

FRANK B. KELLOGG

500.A 4 e/279 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 22, 1925—10 a. m.

[Received August 22—6 : 08 a. m.]

342. 1. The Minister for Foreign Affairs having raised with the senior minister the question whether the delegates to the Special Conference would be furnished with full powers, the representatives of powers signatory to customs treaty decided to send their Governments an identic telegram of which the text in translation is as follows:

2. "As regards full powers for the Special Conference it seems desirable that the powers should confer at Washington as to whether it is advisable to furnish them to the delegates and if so what would be the substance of such full powers, which should be identical."

MACMURRAY

500.A 4 e/279 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, August 27, 1925—8 p. m.

222. Your No. 342, August 22, 10 a.m. The Government of the United States will issue to John Van A. MacMurray and Silas Strawn, its delegates to Special Conference on Chinese Tariffs, full power and authority for and in the name of the United States to meet and confer with the duly authorized representatives of other Governments signatory or adherent to the Nine Power Treaty of

February 6, 1922, and represented at the Special Conference, being invested with like authority, and with them to negotiate, conclude and sign any treaties, conventions or other acts adopted by the Special Conference, the same to be transmitted to the President of the United States for his ratification by and with the consent of the Senate thereof.

The above information is being communicated to other interested Governments through diplomatic missions which are being instructed at the instance of the Secretary of State to express the hope that they will find themselves able to issue similar authority to their delegates to the forthcoming Conference.

GREW

500.A 4 e/352b

The Secretary of State to the American Delegation

WASHINGTON, September 9, 1925.

SIRS: I am transmitting to you herewith the following instructions for your guidance in the performance of your duties as the American Delegates to the Special Conference called by the Chinese Government to convene at Peking on October 26, 1925, in accordance with the provisions of the Nine Power Treaty Relating to the Chinese Customs Tariff, concluded at Washington on February 6, 1922. As you will observe, these instructions are of a general character. The number of Powers participating in the Conference, the complexity and technical character of the matters to be dealt with, and the necessity of constant and careful consideration being given to the changing political situation in China, render impracticable the framing of detailed instructions. It would, moreover, in any event be my desire that you have a broad latitude of discretion in dealing with the specific questions which will confront you. At the same time, it is equally desirable that the Department should be kept fully informed upon all matters of importance and its instructions sought when needed.

Until the last few months, it had been the belief of this Government, and presumably that of the other foreign governments concerned, that the provisions of the Customs Treaty would suffice for the present to meet the Chinese desires on the subject of tariff revision. The events of the last few months have, however, made it evident that these provisions will not satisfy those desires as a step in progress toward ultimate tariff autonomy. Chinese aspirations toward freedom from what they consider to be oppressive restrictions imposed upon them by the Powers are not confined to Customs matters alone, but embrace other subjects upon which they are equally

insistent that radical changes be made. I am sympathetic with the aims of the Chinese, and desire to bring about such modifications in our treaties with China as may be just and practicable; but I do not desire to apply abstract principles in disregard of actual conditions in China and of such practical courses of action as may be recommended by a careful consideration of these conditions. I am of the opinion, however, that, with respect to the Tariff, the Special Conference ought to go beyond the strict scope of its activities as defined in the Customs Treaty and enter into a discussion of the entire subject of the conventional tariff, even including proposals looking toward ultimate tariff autonomy. I am also of the opinion that other subjects dealt with in our treaties with China deserve reconsideration at an early date and that the Special Conference may well serve as the first step toward a consideration of these matters. These views have been already set forth in the course of instructions of the last few months to the American Legation at Peking. It must be borne in mind, however, that the purposes of the Special Conference and the scope of its activities as they now stand are defined by treaty and are a matter of treaty obligation. The work of the Conference cannot, therefore, be modified or extended without the concurrence of the governments of all Powers signatory to the Treaty. It is my hope that, either before the opening of the Conference or during the course of its sessions, agreement may be obtained which will enable the various delegations to take up for discussion such further matters relating to its purpose as will constitute a program sufficiently liberal in its agenda to satisfy the demands of the conservative elements of the Chinese people and at the same time not be subversive of the fundamental rights and interests of all the Powers concerned. With this contingency in mind, you are being equipped with full powers to negotiate with the representatives of the Chinese and other signatory or adherent Powers, and to conclude such agreements as may be adopted by the Special Conference, the same to be submitted to the President of the United States for his ratification by and with the advice and consent of the Senate. Such negotiations on your part will eventually call for further instructions; for the present instructions have been framed with a view to your guidance merely in matters specified in the Treaty, the agreements of the Conference in regard to which do not appear to call for subsequent approval by the Senate.

I am of the opinion that the ultimate interests of the United States will best be served by your work being approached in the broadest spirit and with the purpose of rendering the utmost possible contribution to the improvement of trade and of the general welfare in China in so far as these matters may be promoted by the decisions reached in the Conference. The primary function of the Conference

is described in Paragraph 1 of Article II of the Customs Treaty wherein it is clearly indicated that its main objective is the amelioration of conditions of trade through the diminution and ultimate removal of local taxation on merchandise in transit. Although in the treaties referred to in Article II, China agreed to abolish likin and the Powers concerned agreed in return to consent to an increase in the import tariff to 12½ percent ad valorem, likin has in fact never been abolished; and, in recent years, numerous other forms of taxation, such as "sales taxes" and "protection fees", have been additionally imposed upon goods offered for sale which have in effect nullified to a certain extent the provisions of the conventional tariff. From such information as is available on the subject, it appears doubtful whether the Chinese Government, however desirous of so doing, is now, or in the near future will be, able to take any effective measures for the abolition of likin or even to make any substantial progress toward that end. Nevertheless, such an assumption, however well justified it may seem from a survey of existing conditions in China, cannot be taken as an established fact. It is my earnest hope that the contrary may prove to be the case. The Chinese Government must be given an opportunity to present such plans as it may have formulated on the subject; and these proposals should receive your careful and sympathetic consideration. They should, however, be studied strictly in the light of their practical applicability to conditions now existing in China. It is essential that any scheme which may be adopted by the Conference have a reasonable promise of fulfillment; for I desire to avoid the conclusion of any new agreements which may remain inoperative as have the pertinent provisions on the subject in the treaties above referred to in Article II.

In dealing with the question of the abolition of likin, I am of the opinion that the representatives of the Powers other than China are entitled to negotiate with the Chinese representatives on the subject of an increase in tariff, beyond the 2½ percent surtax specifically authorized in the treaty, up to a maximum rate of 12½ percent as contemplated in the treaties referred to in Article 2 of the treaty. Such negotiations appear to be justified in view of the language employed in Article II that the Conference is to "prepare the way for the speedy abolition of likin . . ."⁵⁷ with a view to levying the surtaxes provided in those articles." The Treaty would not however appear to contemplate negotiations of this character apart from, or except in conjunction with, a satisfactory plan for the abolition of likin. Such arrangements as might be concluded with respect to any plan going beyond the 2½ percent surtax specified in the Treaty could, of course, not be definitive as in the case of the levying of the 2½ percent surtax

⁵⁷ Omission indicated in the original instruction.

and would have to be submitted for the ratification of the various governments concerned in accordance with their respective constitutional methods.

With regard to the authority granted in Article 3 of the Treaty to levy a surtax on dutiable imports at the rate of $2\frac{1}{2}$ percent ad valorem and at 5 percent ad valorem in the case of luxuries, it is not my desire to restrict the scope of your discretion by precise directions. The following observations are, however, offered as indicative of the trend of my thought upon this subject. In the first place, I am of the opinion that the levying of the surtax is substantially mandatory upon the Conference and that, notwithstanding the possible existence of conditions which might lead the Conference to a contrary view, the Conference would not be acting in complete good faith, were it to take advantage of the broad terms of its charter to impose such conditions either as to the date of the application of the surtax or the disposition of the new revenues as would, in effect, nullify the plain intent of the Treaty that China is to receive the increases stated. In this connection it is to be noted that, although the levying of the surtax is by implication allied with the subject of the interim provisions to be applied prior to the abolition of likin, the Treaty does not specifically condition the levying of the surtax upon any measures to be taken with respect to likin; and the Conference is given a free hand to levy the surtax "as from such date, for such purposes, and subject to such conditions as it may determine." I regard the choice of this language as fortunate, particularly in view of recent developments in the political situation; for it gives the Conference full authority to make such a disposition of the additional revenues as will suit the exigencies of the times.

The assignment of the revenues to be derived from the $2\frac{1}{2}$ percent surtax as compensation to local authorities in any plan for the abolition of likin would not appear to be practicable in view of the insufficiency of the revenues available from the surtax even if it were so used *in toto*. Should, however, the Conference discuss and conclude arrangements whereby some reasonable plan were evolved for the diminution and gradual removal of the present vexatious restrictions upon domestic trade and in return therefor the Powers concerned were to consent to an increase, graduated or otherwise, of the tariff to a maximum of $12\frac{1}{2}$ percent ad valorem, I should be inclined to feel that the assignment of these revenues, to such an extent and in such a manner as might be necessary to the practical working out of such a scheme, would perhaps prove to be the most beneficial purpose to be served. As I have stated above, I should not be satisfied with a mere paper arrangement or with any plan which did not have a reasonable promise of measurable success in

application and which was not calculated to facilitate trade or exercise a tranquillizing and stabilizing effect upon the political situation.

The matter has been brought to my attention of using the revenues from the 2½ percent surtax for the purpose of refunding the large unsecured debt of the Chinese Government, or at least for refunding the external portion of that debt. I am informed that the amount of existing unsecured and inadequately secured obligations of the Chinese Government to American citizens is in the vicinity of \$30,000,000; largely consisting of loans in default and of debts incurred for materials supplied to the Chinese Government. These creditors are of the opinion that there is no reasonable prospect of these claims being liquidated through other means than by the revenues available from the 2½ percent surtax. I am informed, furthermore, that the nationals of other Powers have claims aggregating large sums, the Japanese claims equaling approximately the claims of all other foreign nationals combined. The Treaty providing for the Special Conference did not of course contemplate an increase of the Chinese Customs Tariff for the purpose of satisfying foreign claims against China. There is no express provision in that Treaty that the claims to which I have referred are to be considered in connection with the conditions under which the 2½ percent surtax is to be levied; and it would not appear that any Delegation to the Conference could of right insist upon a consideration of these claims. On the other hand, it would appear that the Conference has full authority, if it so desires, to consider such claims under the broad scope given it to determine the conditions under which the surtax is to be levied.

I am inclined to the view that the Conference should discuss the general advisability of using the surtax revenues for the refunding of China's unsecured obligations and should consider the question of the sufficiency of these new revenues for this purpose. The unsecured obligations, with rapidly increasing interest, threaten to reach proportions which may soon make it almost impossible to relieve the acute financial situation of the Chinese Government. This debt must, unless repudiation is contemplated, be recognized as an obligation which the Chinese people as a whole will have to meet. The earlier the matter is studied and some attempt made to find a solution, the better it will be for all parties in interest. It is fully recognized that the subject must be handled in the light of the political situation and not merely as a purely financial problem. I desire especially to avoid having the impression created that the principal motive on the part of the Powers in assenting to an increase in the tariff is to find means to collect the debts of their respective nationals. The Conference should not lay itself open to the charge of being a Debt Collecting Commission. In this connection, it would be essential to

treat the subject of the unsecured debt as a whole and not to lay emphasis solely upon the external debt.

It is of course not now possible to say whether it will prove practicable to deal with the unsecured debt through relief afforded by revenues from the surtax. The practical aspect of the question must be studied by those who are qualified to make such investigations. It is hoped that such studies as may be made will result in the formation of a plan which may be used to alleviate the present financial emergency of the Chinese Government and at the same time safeguard the fundamental and legitimate interests of its creditors. Whatever may be the outcome of the matter, I am of the opinion that the subject should not be left outside the scope of the discussions of the Conference.

The subject of cooperation with the other Delegations to the Conference I regard as one of great importance. Without effective cooperation on the part of China and of the Powers I doubt if it will be possible for the Conference to attain any high degree of success. I desire, however, that, while exhibiting toward all a most liberal spirit of cooperation, you should retain your complete independence and avoid the possibility of any charge that the American Government is taking sides for or against any other government represented at the Conference.

I am [etc.]

FRANK B. KELLOGG

500.A 4 e/321 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 10, 1925—11 a. m.

[Received September 10—10:14 a. m.]

388. 1. Although a mandate of September 5 appoints a Chinese delegation to the Special Conference, 12 persons (including Ministers of Foreign Affairs, Finance, and Communications, the Chinese Minister to the United States, Liang Shih-yi, W. W. Yen, C. T. Wang and Admiral Tsai), I understand that it is the Government's intention to give plenipotentiary powers to 6 of the 12, the others constituting something in the nature of an advisory commission.

2. Hawkling Yen has been appointed secretary general of the Chinese delegation. He thinks, though it has not yet been determined, that this involves his becoming secretary general of the conference.

3. Arrangements are being made for the holding of plenary and committee meetings and for large force office room for the several delegations in what used to be the Presidential Palace.

4. While I hope soon to be in a position to give more definite information as to the plans of the Chinese Government in regard to the conference it may be useful to the Department to know what I gather to be the tentative program of the administration. There has been worked out (apparently under the inspiration of W. W. Yen and Liang) a fairly coherent project involving the following points:

A. Renunciation in principle by the treaty powers of all right of restriction upon the customs tariffs leviable by China.

B. Undertaking by the Chinese Government to levy, at any rate for a specific period of years and after a transitional period of perhaps two or three years, graduated "scientific" tariff involving a free list and some four or five classifications up to rate of 30-odd percent on luxuries which my Chinese informants state would be in all tantamount to an average of between 8 and 9 percent on imports.

C. Likin and other internal taxes on trade to be abolished forthwith.

D. Arrangements to be made by the Central Government with the several provinces whereby in exchange for the abolition of internal taxes, provinces would receive in due ratio an equivalent portion of increase in customs revenue amounting to approximately 60 percent of the anticipated Mexican dollars 100,000,000 annually to be collected by the customs.

E. The remaining 40 percent of increase to be devoted to purposes of a loan for the funding of the external debt, domestic obligations of the Government being taken care of separately by charges upon the salt and other revenues.

5. In the course of informal conversations I have taken occasion to intimate that in exercising its prerogative in initiating agenda of the Special Conference the Chinese Government would be well advised to avoid presenting at the outset the point-blank issue as to what the Chinese call "tariff autonomy" lest a somewhat academic point should thereafter overshadow the conference and create an atmosphere of antagonism between Chinese and foreign opinion. It is my impression however that as a result of pressure which this administration is not courageous enough to oppose, the Chinese will find themselves impelled to make the best compromise they can between a sweeping claim for idealistic formula of "tariff autonomy" and a practical proposal for tariff arrangements which the powers could accept without too great an apprehension that present or a future administration would tax foreign trade out of existence under the plea of financial necessities and with complete disregard of the consequences that might thereafter recoil upon a succeeding administration.

6. The above prognostications and suggestions are made purely tentatively in order to enable the Department and Strawn to consider the matter as fully as may be possible in the light of information at hand to date. I assume that the Department has kept Strawn fully

advised of the abnormal political or psychological situation which must necessarily constitute a background to the work of the conference.

MACMURRAY

500.A 4 e/321 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, September 12, 1925—4 p. m.

248. Your 388, September 10 and 393, September 11.⁵⁸

I have prepared and given to Strawn a letter⁵⁹ containing instructions on suggestions in your message. I should approve the acceptance of the tentative Chinese proposals in No. 388 or some similar program.

In that letter I said in substance: It has been my idea from the beginning that within the near future we would have to release China from its conventional tariffs and give up extraterritoriality. That is the trend of modern events in relation to all self-governing countries where extraterritorial privileges have existed. It is reasonable to suppose that a great nation like China will not long permit foreign control of its domestic affairs. It was with a view to meeting what I believe to be a growing demand in China that I shaped the policy outlined in the note of the Nine Powers⁶⁰ and in my speech at Detroit.⁶¹ I believed then and I believe now that such action will go farther toward alleviating the anti-foreign sentiment in China than anything else. It is my desire, therefore, if we can work out a plan whereby tariff autonomy will now or eventually be given to China and extraterritoriality given up that this be done and that you should bear this in mind in your negotiations. I believe also that this meets the approval of the great body of American sentiment and will be approved by the Senate and the Congress. I think the fear which Japan and England and perhaps some of the other countries have is that China will use this power to exclude foreign trade entirely or to discriminate between the nationals of the different Powers. So far as the latter is concerned, of course a treaty can provide against any discrimination. A middle ground might be found along the lines of the plan suggested in your 388 whereby the Powers renounce in principle conventional tariffs and China levies

⁵⁸ Latter not printed.

⁵⁹ Not printed.

⁶⁰ See note No. 41, Sept. 4, from the Minister in China to the Chinese Minister for Foreign Affairs, and footnote 36, p. 831.

⁶¹ *Ante*, p. 823.

certain rates for a term of years which would insure protection of foreign interests. This might satisfy the Chinese public sentiment and the public sentiment in this country and assure that definite steps had been taken for the renunciation of tariff control. I am not, of course, prepared to say that it is wise for us to declare for unconditional surrender of conventional tariffs and extraterritoriality at once. We may be driven to this position if the Powers are not willing to make reasonable concessions.

As to your 393, if you can get these views before the officials or the public in China in some way, it might counteract the propaganda against the note which is evidently going on. Do you suggest that I give any publicity here to such views beyond what I have done in my speech at Detroit?

KELLOGG

500.A 4 e/342

The British Chargé (Chilton) to the Secretary of State

No. 822

MANCHESTER, MASS., *September 18, 1925.*

[Received September 19.]

SIR: With reference to previous correspondence on the subject of the forthcoming Conference to consider the question of the Chinese Tariff, I have the honour, on instructions from His Majesty's Government, to inform you that their delegates to the Tariff Conference are being instructed on the following lines: whilst of opinion that the grant forthwith of complete tariff autonomy is out of the question in the present stage of Chinese administration and fiscal development, His Majesty's Government have no intention of rejecting the request of the Chinese Government for eventual full tariff autonomy. It must, however, in the opinion of His Majesty's Government, be made clear at the outset that such autonomy can only come in stages and in the measure in which the Chinese authorities carry out their part of the programme adopted at the Conference. His Majesty's Government trust that the Conference will enable this principle to be confirmed, and to be put into practical application.

In bringing the above information to your notice, I have the honour to add that His Majesty's Principal Secretary of State for Foreign Affairs proposes, in a speech to be delivered today, to outline the policy of His Majesty's Government with regard to China.

I have [etc.]

H. G. CHILTON

500.A 4 e/861 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 25, 1925—8 p. m.

[Received September 25—9:45 a. m.]

418. I have just received from senior minister mimeographed circular entitled "Provisional Agenda for the Special Conference on Chinese Customs" which has been handed to him by the Foreign Office for distribution, reading as follows:

"A. *Tariff autonomy.* (1) Adoption by the Chinese Government of the Chinese general customs tariff. (For practical convenience a period is to be agreed upon within which to make preparations for the coming into force of tariff autonomy and application of the Chinese general customs tariff.) (2) Abolition of likin.

B. *Provisional measures to be taken during the interim period.* (1) Levy of an interim surtax. (2) Levy of a surtax on articles of luxury. (3) Arrangements to unify the rates of customs duties at the land and maritime frontiers. (4) Valuation of commodities.

[C.] *Related matters.* (1) Arrangement[s] to ascertain the country of origin of imported goods or produce. (2) The depository [depositing] of customs revenues."

Copy by mail to Tokyo.

MACMURRAY

500.A 4 e/870 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, September 30, 1925—11 a. m.

[Received September 30—9:20 a. m.]

423. 1. The Chinese Secretary has learned by discreet inquiry that the Soviet Chargé very recently asked the Minister for Foreign Affairs whether the Soviet Government would not be invited to take part in the Tariff Conference. The Chargé was informed that this would not be possible, as the Soviet Union was not a party to the customs treaty and was not entitled to adhere to that treaty, as it did not have a treaty with China providing for a 5 percent tariff, which under article 8 was the eligibility requirement for adherence to that treaty. The Soviet Chargé proposed that he should address a formal note to the Minister for Foreign Affairs but the Minister asked him not to do so. There have been no further developments in this matter.

2. I have learned that the German Minister has been very persistent in urging both the Chief Executive and the Minister for Foreign

Affairs that Germany be invited to the conference. The request has been refused as Germany has no treaty right to a 5 percent tariff.

3. The German Minister has presented the matter to me somewhat differently. In a conversation he urged that although Germany may not be entitled to participate in the conference, it should be enabled to give its adherence to the Washington Conference treaties and resolutions concerning China so that Germany could cooperate in the policies set forth therein. I should think that this would be desirable so far as concerns Chinese questions if it could be arranged without involving participation by Germany in the conference and without causing embarrassment by the obvious necessity of refusing to offer an opportunity for the Soviet Government to adhere under somewhat similar circumstances.

MACMURRAY

500.A 4 e/374 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, October 1, 1925—7 p. m.

[Received October 1—6:27 p. m.]

425. My telegram number 418, September 25, 8 p.m.

1. Minister for Foreign Affairs informs me that the "provisional agenda" was prepared by the commission recently appointed by the Government to deal with matters in connection with the Special Conference and was informally submitted in response to the senior minister's intimation that it would be desirable that the Chinese Government give some indication of its purpose in the conference and afford some opportunity for our Governments to consider and possibly make suggestions regarding agenda.

2. The Chinese proposals were informally considered at a meeting of the interested diplomatic representatives Tuesday. There was general tendency to assume that the placing of "tariff autonomy" in the forefront of the agenda is a mere face-saving device and that the Government will be even glad to skim over that heading with a high-sounding declaration. For my own part I disagree with that viewpoint and consider that the administration in power will for the sake of additional revenues be prepared to put up hard fight and appeal to nationalistic agitation to support its claims. I therefore pointed out that the creation of an immediate issue in regard to the question of "tariff autonomy" and the association of the likin question with that issue rather than with the provisions of the customs treaty presuppose a basis entirely different from that of the treaty; and having in mind your telegram number 198, August 10, 5 p. m., as well as the

uncertainty in which we are left by the failure of the Chinese Government to live up to its obligations and to deal loyally with us in the Federal Wireless case⁶² as a test of the principle of the open door, I declared myself unable to express any views on the subject of the proposed agenda without instructions.

3. The interested representatives then decided to send to their respective Governments the following identic telegram (in translation from the French):

"In communicating to their respective Governments the draft programme given below, drawn up by the Chinese Government for the Special Conference for the Revision of the Customs Tariff, and which was submitted to them unofficially, the representatives of the interested powers wish to make the following remarks: The question of tariff autonomy, being only a question of principle concerning which the primary purpose of the Chinese is to formulate a *voeu*, should be mentioned alone under the heading A in the following form: 'the Chinese Government, referring to the declaration made by its delegation at the Washington Conference, proposes to submit to the Special Conference the question of tariff autonomy'; the explanatory formula which follows would disappear.

The abolition of likin would figure under the heading B; heading C would include the temporary measures at present indicated under paragraph B, to which would be added the two 'related matters'.

Finally, a heading D would refer to the board of reference provided for in resolution IV of the Washington agreement.⁶³ These modifications are intended (1) to give to the Chinese Government reference to autonomy the value of a wish only, which will not commit the foreign governments; (2) to separate the question of likin from that of autonomy to which the Chinese apparently wish to link it; (3) to mention the board of reference which did not figure in the Chinese draft. The interested representatives request their Governments to authorize them to continue on these bases the unofficial conversations begun with the Chinese Government for the definite drawing up of the programme."

4. I concur in the advisability of the modifications suggested and feel that the agenda as thus modified might be adopted if it were made clear in the terms of acceptance that the determination of the question of "tariff autonomy" is not to be made a condition precedent to the consideration of the matters for which provision was made by the treaty, but will be considered in connection with those questions.

5. I request your instructions.

6. Repeated to Tokyo for the information of the Embassy and of Strawn.

MACMURRAY

⁶² See pp. 890 ff.

⁶³ *Foreign Relations*, 1922, vol. I, p. 289.

500.A 4 e/370: Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, October 3, 1925—2 p. m.

278. Your telegram 423 of September 30, 11 a. m., second and third paragraphs. This Government cannot exceed the authority granted to it in the treaties and resolutions adopted by the Washington Conference. As Germany is one of the countries described in article 8 of the treaty relating to principles and policies to be followed in matters concerning China which have treaty relations with China and are recognized by the signatory powers,⁶⁴ the German Government has been invited to adhere to that treaty. Soviet Russia has not been invited to adhere to this treaty because while it has treaty relations with China it is not recognized by all of the powers signatory to the treaty.

The Chinese customs tariff treaty provides in article 8 that the United States shall invite the adherence of nonsignatory powers which at the time of the signing of the treaty were recognized by the signatory powers and had treaties with China limiting the customs rates to 5 percent on imports and exports. Germany and Soviet Russia have not been invited to adhere to this treaty because they do not qualify under the provisions of article 8.

The fifth resolution of the Washington Conference, that relating to extraterritoriality in China,⁶⁵ may be acceded to by nonsignatory powers which have treaties with China granting them extraterritorial rights. This Government does not understand that either Germany or Soviet Russia are qualified under this resolution to participate in the coming Commission on Extraterritoriality as at present they do not have extraterritorial rights in China.

GREW

500.A 4 e/374: Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, October 5, 1925—1 p. m.

282. Your 425, October 1, 7 p. m.

1. As stated in my No. 248 of September 12, 4 p. m., I am prepared to approve the acceptance of a proposal such as that outlined in your No. 388 of September 10, 11 a. m., which I consider a "reasonable proposal" such as the Powers have by their identic notes of

⁶⁴ *Foreign Relations*, 1922, vol. I, p. 276.⁶⁵ *Ibid.*, p. 289.

September 4⁶⁶ told the Chinese Government they were willing to consider at the forthcoming Conference. I fail to perceive objection to proposal under heading A of provisional agenda quoted in your No. 418 of September 25, 8 p. m., as it stands, including explanatory formula, which I regard as a friendly gesture which the Powers should accept. In view of present widespread national feeling I believe that any arrangements for the abolishment of likin which may be coupled with arrangements looking to the foreseeable relinquishment of treaty restrictions upon China's right to regulate its tariffs [will be?] far more likely to meet with the cooperation of the provinces that is necessary to its successful accomplishment than will one that is linked with the arrangements or surtaxes called for under the Treaty of February 6, 1922.

2. As stated in my written instructions of September 9 to you and to Mr. Strawn I desire at this Conference to avoid the conclusion of any understanding which will fail of execution as did the 1903 treaty because of unpopularity in the provinces, whose support, because of their dependence upon likin as a source of revenue, is absolutely necessary to the successful solution of this question.

3. You should not leave your colleagues in any doubt about my attitude upon these matters. We are going into the forthcoming Conference seriously to cooperate with the Chinese in arriving at some workable solution of the question of Chinese tariff, which will go as far as it is fair to go in satisfying the nationalistic aspirations of the Chinese and yet insure American trade freedom from unequal or discriminatory treatment. If we cannot do this in cooperation with the other Powers at this Conference we must then negotiate separately.

4. As I stated in my No. 198 of August 10, 5 p. m., I would have preferred to have our Delegation go into the Conference on the simple basis of the joint note of September 4, and the terms of the Treaty of February 6, 1922, but as the Chinese Government has offered a provisional agenda in response to the suggestion of the Senior Minister which, in the light of recent extreme agitations which have swept China, I consider reasonable and friendly, I feel it should be accepted. I feel that much can be accomplished both in the discussions which the Diplomatic Body is now having with the Chinese Foreign Minister, and later in the Conference, if emphasis is laid upon our sincere desire to cooperate rather than dictate to the Chinese in these matters. A new tariff treaty embodying (a) a renunciation in principle of our present treaty right of restricting China's freedom of action in tariff matters, (b) a guarantee to American commerce of most favored nation tariff treatment and

⁶⁶ *Ante*, p. 831.

providing against discriminatory or unequal action, (c) the acceptance on behalf of the United States of a Chinese general tariff, as applicable to American goods for a specified period and (d) providing for a decision at the end of that period on the questions of the continuance or revision of said general tariff, or of the complete restoration to China of tariff autonomy, would, in my opinion, be acceptable to this Government as a solution of this question.

5. I have no objection to inclusion of discussion of Board of Reference in the agenda of the Conference.

KELLOGG

500.A 4 e/388 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, October 14, 1925—5 p. m.

290. The Belgian Chargé informs me that Belgian Delegation to Special Conference has been instructed to request Conference to include Banque Belge pour l'Étranger among foreign financial establishments to receive funds proceeding from new Customs receipts. In this connection see Department's mail instruction to you of April 29, 1922, No. 139.⁶⁸ I informed him that if question of deposit of Chinese Customs funds is brought up at Conference the American Delegation will take the position that banks of all nationalities be treated on a basis of equality including American. I explained to him that this did not mean that this Government would urge that surplus Customs funds be deposited with foreign banks.

KELLOGG

500.A 4 e/404 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, October 15, 1925—3 p. m.

[Received October 15—7:46 a. m.]

443. My telegram 438, October 14, 9 p. m.,⁶⁸ paragraph 4.

1. At today's meeting of the interested ministers all others but Japanese and Spanish representatives (who had received no instructions) stated their Governments have authorized approval of the modifications of Chinese tentative agenda referred to in my telegram 425.⁶⁹ They and I concurred in authorizing the senior minister to discuss the proposed modifications with the Chinese Minister for

⁶⁸ Not printed.

⁶⁹ Of October 1, p. 852.

Foreign Affairs not as a proposal of the diplomatic body, but as an informal suggestion.⁷⁰

MACMURRAY

500.A 4 e/404 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Extract]

WASHINGTON, October 15, 1925—6 p. m.

292.

Your action in regard to Chinese tentative agenda report in your No. 443 October 15, 3 p. m. is approved.

KELLOGG

500.A 4 e/412 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, October 17, 1925—7 p. m.

[Received October 17—3:41 p. m.]

449. My telegram number 388 September 10, 11 a. m.

1. It would appear that no such definite program as outlined paragraph 4 has been adopted. Various members Chinese commission have from time to time intimated their desire to talk over confidentially with me in advance the conference plans of the Government but up to the present time have either postponed actual discussion or spoken in obviously evasive generalities. It seems clear that the Government is still undecided upon its course of action.

2. From reliable informants in intimate relations with the Ministry Finance I learn that the financial authorities of the Government are wholly skeptical of the practicability of proposals for so-called tariff autonomy and regard as the crux of the problem the possibility of inducing the powers to consent to interim surtax of 5 percent instead of 2½ provided by the treaty. Could they obtain this they would propose to use entire revenues from this surtax as the basis for a loan, bulk of which would be devoted to the funding of unsecured foreign and domestic debts and the balance to (a) preparations for the abolition of likin, (b) administration purposes and (c) constructive purposes. Apparently the measures contemplated under (a)

⁷⁰ Mr. Oudendijk, the Senior Minister, stated in the first meeting of the committee on program and procedure of the Conference, October 27, that when the Chinese Minister for Foreign Affairs sent word to him that the time was too short for making these alterations, the agenda was allowed to remain as it was. See *The Special Conference on the Chinese Customs Tariff*, p. 57.

would consist of experiments in arrangements with various provinces for the abandonment of internal taxation on the movement of trade in return for a subsidy out of the customs surtax revenues; and the constructive measures contemplated would not consist in the building of railways or similar undertaking but in carrying out of ordinary functions of government now neglected because of lack of funds.

3. These plans of the financial authorities evidently represent what the administration in power would desire to obtain for itself from the conference with a view to rehabilitating its credit deficiencies, consolidating its tenure of power and for that purpose realistically accepting comparatively slight immediate advantage in preference to any prospects of more far-reaching better success in the future. These wholly practical purposes of the financial authorities are sharply contested by the diplomatic and political elements which are anxious to conciliate nationalistic feeling by forcing the issue on the question of tariff autonomy.

4. In consequence of this confusion of purposes it now seems probable that the Chinese will enter the conference without any definite program of action asking initially that the principal [*principle of?*] tariff autonomy be conceded but presenting no concrete plan by which foreign trade would be safeguarded against arbitrary exactions by either central or local authorities whether at the ports or in transit through the interior. It is to [be] apprehended that the insistence of the idealists upon an unqualified concession of tariff autonomy such as none of the powers could accept in justice to their own legitimate interests may precipitate a situation in which a new outburst of demagogue fervor may make it impossible for the more practical elements of the Chinese Government to propose any satisfactory conditions for such a concession.

5. In anticipation of the possibility of obtaining tariff autonomy the Government is considering and has allowed to become public a [apparent omission] of regulations governing levy of tariffs which contemplate imposition of duties ranging up to 40 percent and higher in case of wines and tobacco. Tariff attached to these regulations has not been made public. I understood however that the duty on cotton goods has been reduced to less than present 5 percent as bait to England and Japan whereas very high rate on tobacco was explained to my informant by a Chinese official with the statement that this item principally interests us [*U. S.?*] which is already benevolently disposed. I should welcome such instructions or suggestions as the Department may be able to give for guidance of delegation in meeting such forms of discrimination which cannot be met by most-favored-nation clause.

Copy by mail to Tokyo.

MACMURRAY

500.A 4 e/412 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, October 23, 1925—7 p. m.

303. Your telegram 449 of October 17, 7 p. m., fifth paragraph.

1. It seems to me most important that as far as possible the principles governing future tariff relations between China and other countries be worked out before detailed rates that might be applied under tariff autonomy are considered. So many points of controversy are involved in the question of detailed rate schedules that the possibility of agreement on anything would be endangered should such discussions be entered upon, even informally, in connection with the conference. You may take such action as you think advisable to impress this view upon the interested parties.

2. Unconditional most-favored-nation treatment is a vital underlying principle, as indicated in our telegram 282, October 5, 1 p. m., paragraph 4 (b). Refer in this connection to the seventh article of the treaty with Germany which became effective this month⁷¹ (see *Congressional Record* for February 10, 1925, page 3482⁷²). Express assurance should be given that there will be no discrimination and that when any benefit is granted to any one country the other countries shall receive it unconditionally without request.

3. The possibility of disadvantageous treatment of American trade will remain, as you suggest, even with provisions accepted for most-favored-nation treatment. This might result either from restrictions upon imports and exports, rate schedules, or classification of goods. The following comments are offered regarding these points:

(a) Obviously it will be very difficult to devise any tariff system that will affect equally the Chinese trade of the several foreign countries. The Department feels that if China in good faith applies reasonable principles in tariff-making, no country can with reason object. It is reasonable, for example, that necessities should not bear as high a tax as luxuries. Our Government would not object in principle if higher rates were placed on American luxuries, provided like products from other countries were taxed proportionally. As suggested in paragraph 1 of this telegram, it is important, of course, pending agreement in principle to avoid bickering over such matters. For the protection of American interests it is also important that there shall be no deals between the Chinese and powers not in the conference that under any new tariff would place American trade at an unfair disadvantage.

⁷¹ Treaty of Dec. 8, 1923, *Foreign Relations*, 1923, vol. II, p. 29.

⁷² Vol. 66, pt. 4, p. 3385 in bound edition.

It is difficult for the Department to instruct you further on this point until it receives further advices regarding developments. Follow this question closely and keep us fully informed.

(b) Probably the question of restrictions on imports or exports will not come up. The following is, however, mentioned for your guidance: The position which the Department has taken is that such restrictions, for example licensing or prohibitions, if maintained, shall provide that with respect to commodities, valuations, and quantities the United States shall receive as favorable treatment as is given to any other country. In this connection see recent *modi vivendi*, such as the exchange of notes with Greece,⁷³ printed as Treaty Series No. 706.

(c) The Department has hesitated to include provisions regarding discrimination through classification of commodities in our treaties, as with the American practice of tariff-making it is doubtful whether it is practical to give assurance that our legislation would not through inadvertence contravene such provisions. It would, however, lessen the danger of discrimination by classification if a provision were included to the effect that the principles of most-favored-nation treatment shall be liberally interpreted and that neither customs rates nor classifications shall be used by either of the contracting parties as a means of discrimination against the commerce of the other.

4. The Department believes that agreement with respect to most-favored-nation treatment should be reciprocal, that China should be given such treatment as well as granting it to others.

5. Telegraph to the Department for instructions if any question as to national treatment of shipping is presented.

As the situation develops you will be given more specific instructions.

KELLOGG

500.A 4 e/426 : Telegram

The American Delegation to the Secretary of State

PEKING, October 24, 1925—1 p. m.

[Received October 24—4 a. m.]

464. My 388, Sept. 10, 11 a. m. Mandate of October 22 appoints Shen Jui-lin, Minister for Foreign Affairs, W. W. Yen, C. T. Wang, Huang Fu, Alfred Sze⁷⁴ and Admiral Tsai Tink-kan as delegates with full powers to the Customs Conference.

AM[ERICAN] TAR[IFF] DEL[EGATION]

⁷³ See *Foreign Relations*, 1924, vol. II, pp. 273 ff.

⁷⁴ Sao-Ko Alfred Sze, Chinese Minister at Washington, did not attend the Conference.

500.A 4 e/439 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, October 26, 1925.

[Received October 28—9:42 a. m.]

Summary number 1. Tariff Conference opened this morning at 10 a. m., presided over by Shen Jui-lin, Minister for Foreign Affairs and chairman of the Chinese delegation, who was chosen chairman of the conference by acclamation upon nomination of Mr. Oudendijk, Netherlands Minister and senior minister.

The Chief Executive of the Provisional Government, Marshal Tuan Chi-jui, delivered brief address of welcome and after referring to Washington Conference and particularly to section 1 of article I of nine-power treaty, stated that Chinese people attached great import to this declaration and that an opportunity would be provided at this conference for its realization. He renewed the claim for tariff autonomy and on this subject made following statement:

"The idea of tariff autonomy is not a new one, it is an inherent right of a sovereign nation. We, therefore, trust that friendly nations, actuated by spirit of equality and mutuality, will appreciate our position. The existing tariff regime in China is contrary to economic principles, and consequent loss of revenue to us cannot be fully estimated. It is true that with enforcement of the national tariff and the revision of rates, the burden of the importers will be somewhat increased. It will, however, remove the disadvantages under which the Chinese people have long been laboring, thereby improving their financial conditions, increasing their purchasing power and help develop their infant industries. China is recognized as one of the great markets of the World. The improvement of her financial condition[s], the growth of her wealth and the development of her industries will not only be a blessing to herself but also a source of benefit to the friendly nations. Believing that self-aggrandizement is a step to self-destruction and that mutual assistance is the basis of mutual salvation, my expectations grant [*expectation is great*] that this conference will be guided by the principle of equality and mutuality. Furthermore, the general feeling of unrest and dissatisfaction [*either*] within a nation or between nations, may be traced to economic inequality. The establishment of a tariff regime in China on a basis of equality is the means towards stabilizing the economical reparations [*economic relations*] between China and the World, and forms the foundation of international [*peace*]."

The Minister for Foreign Affairs next addressed the conference, and, after thanking the delegates for the honor of selecting him to preside and extending a warm welcome to the delegates and their respective staffs, he referred to the many international conferences which have been held since the close of the Great War. He spoke particularly of the Locarno Conference; because, as he stated, its achievements are still fresh in our memory and have resulted in the

readjustment of the relations between the interested powers in the light of and in harmony with the new conditions which have arisen since the signing of the Versailles Treaty. He said further that the Washington Conference has had a more direct effect on the Pacific and the Far East than any other conference. In referring to the Chinese customs tariff he said:

"I am inclined to think, and I feel confident that my opinion is [shared] by all of you present, that the treaty tariff regime in China, inaugurated some eighty years ago to meet a condition which no longer exists today, is entirely out-of-date and should not be allowed to continue to prevail. I, therefore, venture to hope that you, the distinguished delegates of this conference, inspired by the spirit of good will and sympathy and availing yourselves of the opportunity now offered, will arrive at [a] readjustment of the Chinese customs questions so that China may be enabled at an early date to exercise her sovereign rights of tariff autonomy."

In concluding, he said that Dr. C. T. Wang, one of the Chinese delegates to the conference, would lay before it on behalf of the Chinese Government certain proposals for the settlement of the Chinese customs questions and that he was firmly convinced that the conference, animated by the spirit of justice, would agree to the proposal[s].

C. T. Wang spoke next and referred to the presentation of the question of tariff autonomy at the Paris Peace Conference in 1919 and also at the Washington Conference. He stated that it remains a matter of regret to the Chinese Government that the tariff proposals have not been accepted, in that he offered [*sic*] section 1 of article I of the nine-power treaty relating to principles and policies, and stated that, placing full reliance on the spirit of the nine-power treaty, the Chinese Government makes the following proposals for the removal of the restrictions imposed by existing treaties affecting the customs tariff:

The customs participating powers formally declare to the Government of the Republic of China their respect for its tariff autonomy and agree to the removal of all the tariff restrictions contained in existing treaties.

The Government of the Republic of China agrees to the abolition of likin simultaneously with the enforcement of the Chinese national tariff law which shall take effect not later than the 1st day of January, 1929.

Previous to the enforcement of the Chinese national tariff law, an interim surtax of 5 percent on ordinary goods, 30 percent on A grade luxuries (namely, wine, tobacco) and 20 percent on B grade luxuries shall be levied in addition to the present customs tariff at 5 percent *ad valorem*.

The collection of the above-mentioned interim surtaxes shall begin three months from the date of signature.

The decisions relative to the above four articles shall be carried into effect from the date of signature.

Chinese tariff law referred to in proposals 2 and 3 in Wang's speech is a law promulgated October 24, 1925, by the Chief Executive of the revolutionary government and will be telegraphed tomorrow or later.⁷⁵

Following Dr. Wang's address, the American Minister spoke as follows:

"It is with a particular satisfaction that we of the American delegation take our place[s] in this conference called in pursuance of one of the treaties concluded at the Washington Conference [and] with the object of effectuating the purpose[s] of that treaty. [It] is our earnest hope that the work of the present conference may be carried on in the same spirit of mutual good will, hopefulness, and confidence, which characterized the proceedings at Washington.

There lies before this assembly a definite task imposed by the customs tariff treaty. We, for our part, approach these duties with [a] hearty good will, determined to do our share in bringing into practical operation the principles and the purposes established by the treaty. In so doing we are prepared to consider carefully, with open minds and in a generous spirit, any reasonable plan which may be proposed with a view to realizing [the] hopes and inspirations [*aspirations*] of the Chinese people in regard to the customs tariff of China.

We are hopeful that the deliberations of this conference, actuated by mutual respect and sympathetic understanding, may result in arrangement[s] that, while safeguarding the just interests of the foreign nations, may also be the means of assisting the Chinese people in developing and maintaining a sound national life."

The French Minister in his address laid special emphasis on the necessity for the financial rehabilitation of China. He confined himself in the main to pleasant references to the conference and to the program of work.

The British Minister in his speech referred to the kind words of welcome spoken by Marshal Tuan and the Minister of Foreign Affairs and concluded as follows:

"This Customs Tariff Conference is, as you all know, the outcome of an engagement solemnly entered into by the nine powers including China which participated in the Washington Conference and its scope and objects were clearly laid down and defined in the treaties signed by those powers on the 6th of February 1922.

His Britannic Majesty's Government, in accepting the invitation of the Chinese Government to take part in this conference and in appointing their delegates thereto, have been actuated by precisely the same motives which impelled him [*them*] to join in the resolutions respecting China adopted at Washington and to becoming [*become*] cosignatories of the Washington treaties; merely [*namely*] their earnest desire to assist the Chinese nation in the realization of

⁷⁵ See telegram of October 28, from the Minister in China, p. 867.

its legitimate aspirations as [and] in the achievement of resolutions [results] beneficial to China as a whole.

His Majesty's Government wish the British delegates to approach the conference in a generous and sympathetic spirit and I am authorized to state that this delegation be [is] prepared to discuss the question of tariff autonomy either at this conference or, if that cannot be arranged, at [a] later date.

We are anxious that the conclusions reached by this conference may make it possible for the Chinese [to] establish a thoroughly sound fiscal system and [to] raise adequate revenues for the needs of the Central Government and also [those of] the provincial authorities. One of the essential aims of the conference as laid down in the Washington treaty is the elaboration of measures leading to the abolition of *likin* and other internal levies on trade and in the view of His Majesty's Government this must necessarily entail some readjustment of the fiscal relations between the Central Government and the provinces which will take into due account the financial necessities of the component parts of this great Republic.

We are convinced that British interests and Chinese interests are essentially the same. We have no doubt that it is in British interests only less than in Chinese interests to promote the establishment of a united, independent, orderly and prosperous China. We naturally recognize that the attainment of this aim lies in the hands of the Chinese themselves, but so far as British assistance may be practicable and may be desired, I can assure you that the wholehearted cooperation of this delegation is at the disposal of the Chinese delegation and of all our other colleagues."

Mr. Hioki, chairman of the Japanese delegation, stated that his delegation have come here with the curious [*serious*] conviction that some definite results [in] the direction of a common purpose and a common understanding between China and other powers may well be attained at the present conference. He pledged that delegation's wholehearted cooperation to this end and predicted that [deliberations of] the conference will be marked on all sides by fairness and moderation in spirit and simplicity and directness in method. He stated that Japan has always watched with keen interest every effort made by the Chinese people for the realization of their legitimate national aspirations. He stated also that Japan had at one time been subjected to unilateral restrictions upon her freedom of action in matters of fiscal and judicial administration and referred particularly to the fact that the present tariff restrictions in China had their counterpart in Japanese history of tariff restrictions in Japan and their relinquishment finally in 1911. Concluding this historical résumé he said:

"China is still following the same paths that we once pursued. The difficulties, the embarrassment[s], and the perplexities that confront China today have once been ours. The Japanese delegation will approach the problems before this conference with sympathy and

understanding and with intimate apprehension of the Chinese position.

I am happy to state at the outset that the Japanese delegation are fully prepared to consider in the friendliest way the question of tariff autonomy which appears in the agenda presented by the Chinese delegation."

Mr. Hioki then referred to certain provisions of the customs treaty particularly articles II and III concerning respectively likin and the 2½ [percent] surtax which he stated could provide additional revenue of approximately 99 [29] million dollars in silver. He made reference also to a general readjustment of Chinese finances and stated that the Japanese delegation would on another occasion make concrete suggestions on this subject. He stated also that the Japanese delegation would not be disinclined to take up any proposals which might be put forward with a view to the levying of a reasonable surtax, higher than 2½ [percent], pointing out that such a proposal might be considered as falling within the terms of article II of the treaty. He remarked, however, that since this would constitute an intermediate step prior to the total abolition of likin, it would be requisite for China to effectuate at least a partial abolition of likin as well as to fulfill certain conditions provided for in the treaties between China and other powers. Mr. Hioki here returned to the question of tariff autonomy and reiterated the statement that the Japanese delegation will consider sympathetically and helpfully any reasonable plan of the Chinese Government in this regard but stated that the goal could be reached only by successive stages and that immediate and unconditional surrender by the powers of their existing treaty rights is not within the contemplation of China herself. Mr. Hioki then proposed the following alternative plan:

"First. That a statutory tariff on a fair and reasonable basis be established for general application subject to the provisions of a special conventional tariff on certain specified articles to be agreed upon separately between China and each of the powers directly interested; or

Secondly. That a graduated tariff so devised as to be acceptable to the powers concerned be established at an average rate of not more than 12½ per centum ad valorem and generally in a manner consistent with the provisions of article II of the Washington Treaty."

Mr. Hioki also said that: "The inauguration of a regime of tariff autonomy in China implies the existence of an adequately strong and unified government, and presupposes a complete removal of all restrictions which might impede the [freedom of] intercourse of [and] trade between China and other powers." He expressed the hope that: "Endowed with remarkable qualities of self-government and sup-

ported by the growth of [nationalism now] so manifestly asserting itself in the country, the Chinese people will succeed in the accomplishing of reforms toward these ends, as much desirable for their own welfare as for the common good of all nations."

In conclusion, Mr. Hioki stated:

"I desire to reaffirm, on behalf of the Japanese delegation, our faith in the spirit of friendliness which animates this important gathering. We ardently hope and believe that by frank discussion and neighborly cooperation, by mutual assistance and concession and by the exercise of due respect for one another's rights and interests, the present conference will find equitable solution for every problem before it to the satisfaction of all and thus demonstrate its will to live and let live."

The Belgian delegate, Mr. Le Maire de Warzée Hermalle; the Danish delegate, Mr. Henrik de Kauffmann; the Italian delegate, Mr. Vittorio Cerruti; the Netherlands delegate, Mr. W. J. Oudendijk; the Norwegian delegate, Mr. Johan Michelet; the Portuguese delegate, Mr. João Antonio de Bianchi; the Spanish delegate, Mr. Justo Garrido y Cisneros; and the Swedish delegate, Mr. Ewerlöf, all made brief addresses referring to the work which lies before the conference and the sympathetic and hopeful attitude in which they approached it.

Upon the conclusion of the above-mentioned addresses Mr. Hawking Yen was chosen secretary general of the conference by acclamation. A committee on program and procedure consisting of Mr. C. T. Wang, for the Chinese delegation, and the chairmen of the other delegations was chosen and is to meet tomorrow. The conference then adjourned subject to call.

MACMURRAY

500.A 4 e/438 : Telegram

The American Delegation to the Secretary of State

PEKING, October 27, 1925—6 p. m.

[Received October 27—2:05 p. m.]

Conference 5. 1. Committee on program and procedure met this morning, C. T. Wang being named chairman. The agenda as set forth in my number 452, October 18, 3 p. m.,⁷⁶ was accepted after considerable discussion, principal question in dispute being whether disposal of the proceeds of surtaxes to be collected under items (1) and (2) of section B of the agenda should be placed on the agenda as item (3). Italian Minister made this proposal which was supported

⁷⁶ Not printed; the text of the agenda transmitted in this telegram is the same as that transmitted in telegram No. 418, Sept. 25, p. 851.

strongly by French and to a certain extent by British Minister. Chairman Wang declared that his Government understood that agenda has been accepted by the powers. There was general objection taken to this by the delegates, the senior minister explaining that the matter of the acceptance of agenda had never come to a final conclusion owing to the fact that the alterations therein suggested by the powers had not been discussed with the Chinese Government as the latter declared that there was not time for such discussion and that therefore the agenda could not be said to have been definitely accepted. Chairman explicitly declared Chinese Government opposed to any change in the agenda as recently published but that Chinese Government intended to bring up question of disposal of proceeds of surtaxes in appropriate committee meeting. British Minister suggested compromise that minutes of committee meeting of this morning contain statement by chairman that Chinese delegation would discuss the question at issue in appropriate committee. Italian Minister remained obdurate as did chairman. I then suggested Chinese delegation at this committee meeting embody British Minister's suggested compromise in a minute to be put to vote. This was done and following minute passed:

"It is understood that the question of the disposal of the proceeds from the surtaxes as provided in items (1) and (2) under B (Provisional Measures to be Taken During the Interim Period), as well as the question[s] of the date of enforcement [and of] the conditions subject to which they are to be imposed, will be dealt with by the committee on section B."

2. In view of the evident disposition of the chairman to regard the terms of agenda as preventing consideration of any matters not expressly inscribed thereon, I made a reservation, as did British Minister, to the effect that any matter contained in the nine-power customs treaty or the resolution concerning board of reference should be open to discussion by the conference.

AM[ERICAN] Tar[IFF] DEL[EGATION]

500.A 4 e/440 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, October 28, 1925.

[Received October 28—11:10 a. m.]

Summary number 2. Following are the customs tariff laws promulgated October 24th, 1925 and referred to by Dr. C. T. Wang in his address on October 26th.

"ARTICLE 1. Foreign articles upon their import into any open port in China shall be subject to an import duty according to the provisions defined in this law.

ARTICLE 2. With the exception of tobacco, wine, and articles similar in nature to those under Government monopoly which shall be otherwise provided for, the highest rate of import duty shall be 40 percent and the lowest 7½ percent. The tariff schedule will be promulgated separately.

ARTICLE 3. The duty-paying value of goods subject to a specific duty shall be fixed, converted or adjusted on the basis of their average prices prevailing during the preceding year.

ARTICLE 4. The duty upon value of goods subject to an ad valorem duty shall be fixed on the basis of their wholesale prices prevailing at the port of entrance.

ARTICLE 5. In event an agreement exists with any country on terms of reciprocity with regard to the import duty of certain articles, the tariff on such articles shall be in accordance with that agreement.

ARTICLE 6. In event any country subjects Chinese articles to less favorable treatment than those of other countries, the Government may by mandate impose [an] import duty on articles from that country in addition to the duty as prescribed in the tariff, such increase of duty not to exceed in amount the value of such articles.

ARTICLE 7. In event a country grants an export bounty on its articles, the Government may by mandate impose an import duty on such goods of the same amount as the said bounty, in addition to the duties prescribed in [the] tariff.

ARTICLE 8. In event the prices of foreign articles are intentionally and unreasonably lowered to such an extent that the Government considers it a disturbance to the market, it may by mandate impose a duty equal to the proper prices, in addition to the duties prescribed in the tariff.

ARTICLE 9. Articles unentered in the tariff shall be subject to a tariff on the same scale as goods of the same or similar nature listed in the tariff.

ARTICLE 10. The following articles shall be exempt from import duty: Articles belonging to chiefs of foreign states and their suites visiting China; articles for the personal use of foreign ambassadors or ministers accredited to China or articles for the official use of foreign ambassador's [*embassies or*] legations; arms, ammunitions, powder, explosives and munitions of war of every description imported by the Government; articles purchased or donated for relief purposes; samples of merchandise which are only fit to be used as such; native articles reimported within three years after exportation without any change in character and form; exported articles shipped by vessels which cleared from Chinese ports, but brought back on account of damage or danger to the vessel.

ARTICLE 11. The following articles, if imported for reexport within one year, shall be exempted from import duty, but a deposit must be made at the time of importation of an amount equivalent to the amount of import duty payable: Articles imported for the purpose of having work done thereon; articles imported for repair; articles imported for the purpose of scientific research; articles imported for trial.

ARTICLE 12. The import of the articles specified hereunder is prohibited: Salt; opium, utensils for smoking opium, poppy seeds, morphine, Chin Tan, hung wan, pai wan, and all pills containing

morphine, opium or cocaine; counterfeit, altered or imitation coins, paper money or other negotiable papers; books, pictures, carvings and other articles injurious to public safety or morals.

ARTICLE 13. The importation of arms, ammunitions, powders, explosives and other munitions of war of every description is prohibited, except by the Government.

ARTICLE 14. The importation of the following articles is prohibited except with special permission of the Government: Saltpetre, chlorate of potash, sulphur, zinc (powder, spelter), hydrochloric acid, nitric acid, sulphuric acid, yearrow [*yellow*] phosphorus and explosives for industrial purposes.

ARTICLE 15. The following articles may be imported in reasonable quantities after analysis and joint certification by Government-registered medical practitioners, druggists and chemists as to their proper use and after report to and further examination by the customs authorities: Morphine; cocaine and hypodermic syringes; antipium pills containing morphine, opium or cocaine; stovaine; heroin; strychnine; thebaine; cghanja; hashish; bhang; *cannabis indica*; tincture of opium; laudanum; codeine; dionin; and all other derivatives of opium and cocaine.

ARTICLE 16. Date on which the present law shall be put into operation shall be determined by mandate.

ARTICLE 17. On the date this law is put into force, the national tariff regulations promulgated on December 25th, the Sixth Year of the Republic of China, 1917, shall become null and void."

"Law regulating the import duty on tobacco and wine:

[ARTICLE 1. Foreign tobacco and wine on] importation same into any open port in China shall be subject to an import duty according to the tariff given in this law.

ARTICLE 2. The import duty on tobacco and wine shall range from 50 percent to 80 percent ad valorem.

ARTICLE 3. Duty-paying value shall be fixed, converted or adjusted on the basis of the average wholesale prices prevailing during the preceding year.

ARTICLE 4. The date on which this law shall take effect will be promulgated by mandate."

The following press communiqué was issued by the [secretary] general of the conference today:

"The committee on program and procedure appointed by the conference in its session on October 26th met at 11 a. m. on October 27th at committee room number 1, Chü Jen T'ang. There were present Dr. C. T. Wang of the Chinese delegation and heads of all the other delegations, with their respective secretaries.

The secretary general was present.

On the proposal of the Netherlands delegate, Dr. C. T. Wang was elected chairman.

A discussion of the agenda took place and it was decided to appoint three committees to deal with the three groups of questions on the agenda:

Committee one to deal with tariff autonomy.

Committee two to deal with progressional [*provisional*] measures to be taken during the interim period.

Committee three to deal with related matters.

It was decided that a drafting committee was to be appointed.

The committee also passed on the rules of procedure and it was decided that the three committees should immediately proceed with their work."

MACMURRAY

500.A 4 e/443 : Telegram

The American Delegation to the Secretary of State

PEKING [undated].

[Received October 30, 1925—1:45 p. m.]

Conference 6. 1. At a meeting of the committee on tariff autonomy this morning China reiterated request that powers concede principle of tariff autonomy effective coincident with the abolition of likin January 1st, 1929. Most of the powers expressed willingness to concede principle but British, ourselves, and some others reserved decision until further examination of China's plan for abolition of likin and internal taxes. Italian delegation elaborated plan proposed by Hioki as reported in summary 1.⁷⁷ Meeting adjourned until next Tuesday.

[Paraphrase]

2. We submit for your approval the following as a tentative basis for us:

(a) Put the 2½ percent surtaxes provided for in the Washington Treaty into effect at the earliest possible date.

(b) Concede to China the right to tariff autonomy effective on January 1, 1929, or, if possible, at a later date, likin to be abolished at the same time.

(c) Secure an agreement that full surtaxes will be collected at land frontiers the same as will be collected at the seaports.

(d) Agree that the first revision of tariff rates provided for in the Washington Conference treaty shall be made in 1926 and that the revised schedule shall become effective on January 1, 1929.

(e) Agree that, conditional upon the abolition of likin by July, 1927, in all seaboard provinces, the 2½ percent surtax on exports and the 7½ percent surtax on imports, authorized in the treaties of 1902 and 1903, shall become effective January 1, 1928, making a uniform maximum rate on all frontiers of 7½ percent on exports and 12½ percent on imports.

(f) Agree that if by July 1, 1928, abolition of likin shall have been completed, the Chinese general customs tariff shall come into effect on January 1, 1929, and that a second special conference on the Chinese customs tariff shall be held May 1, 1928, at Peking to ascertain the facts in that regard.

⁷⁷ See telegram of October 26, from the Minister in China, p. 861.

(g) Secure a declaration by China of its purpose to maintain in its present form the Chinese Customs Administration.

(h) Secure agreement that Custom Administration shall refund unauthorized likin payments should likin not be abolished and provinces try to impose likin in addition to the customs dues.

3. Revenue derived from surtax to be used (1) to pay the rebates mentioned under section (h); (2) to give the provinces compensation for the abolition of likin; (3) to refund unsecured debt; (4) for the Central Government's administrative expenses.

4. As you fully realize, the Chinese Government is so lacking in stability that there is great danger that this or a succeeding government may renounce the treaties unless we concede some of the demands.

5. We request telegraphic instructions as soon as possible.

AM[ERICAN] TAR[IFF] DEL[EGATION]

500.A 4 e/445 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, October 31, 1925.

[Received November 1—3:49 p. m.⁷⁸]

Summary number 3. The following is the substance of the press communiqué issued last night by the Committee on Tariff Autonomy following its meeting in the forenoon:

"The committee on tariff autonomy held its first meeting October 13th [30th] with the American, Belgian, Danish, French, British, Italian, Japanese, Dutch, Norwegian, Portuguese, Spanish and Swedish delegates present.

Doctor C. T. Wang was elected chairman of the committee.

Doctor Wang, on behalf of the Chinese delegation, presented the Chinese proposals on tariff autonomy, which he had previously submitted to the conference on October 26th, and suggested that paragraphs 1 and 2 of the five proposals be dealt with in committee one, reserving 3 and 4 to be dealt with by committee two, and 5 to be discussed separately afterwards.

Mr. Hioki further elucidated the proposals advocated by him on behalf of the Japanese delegation on October 26th, with the following statement:

'At [the] first plenary session of this conference, the Japanese delegation had the honor to suggest their alternative plans by which tariff autonomy is to be restored to China. However, as the [presentation] of these plans was of somewhat laconic character, [I] feel it pertinent to add a few words with a view to elucidating the nature of our proposals.

By the first alternative plan, we suggest the inauguration of a Chinese statutory tariff for general application, together with [a

⁷⁸ Telegram in three sections.

special tariff on certain] articles which are to be agreed upon by treaty separately between China and [the] interested Powers. While the statutory tariff is to be made by China freely as it pleases, such tariff should be so devised as not to hurt the trade relations between China and other countries. In fact, the adoption of a fair and reasonable statutory tariff should reduce to the minimum the number of those countries requiring separate arrangements with regard to special tariffs.

[In reviewing] the history of Japanese recovery of tariff autonomy, I brought out the fact that the revised treaties of 1894 between Japan and [the] Powers did not come into effect until after 5 years from the date of signature and remained in force for the following 12 years. We believe this precedent deserves our attention; China may well take a similar course.

In his speech at the opening session, Doctor C. T. Wang indicated the determination of the Chinese Government to effect the abolition of likin and to bring about the enforcement of a Chinese national tariff law within 3 years. China within such a [preparatory] period may conclude with other Power[s] treaties along the lines of [the] first plan, which will become operative simultaneously with the enforcement of the Chinese national tariff law. The new treaties will supersede the existing treaties between China and other Powers and will remove unilateral restrictions imposed upon China with respect to customs tariff. In case the first alternative is approved by the present conference, it is the intention of the Japanese delegation to suggest that during such period, prior to the enforcement of the Chinese statutory tariff, an interim surtax be levied in accordance with the provisions of article 3 of the Washington treaty.

The second plan suggested by us proposes the establishment of a tariff regime [which] would be, in a general manner, consistent with the stipulations of the treaties of 1902 and 1903 between China and the other Powers. In [case] this plan should be adopted, we would propose the inauguration of a graduated tariff since a uniform tariff at the rate provided for by these treaties is unreasonable and unscientific [and] works to the detriment of trade between China and foreign countries.

When we compare these two alternative plans, it appears to us that the first plan is to be preferred to the second. The latter plan is based on the treaties between China and other powers conclude[d] more than 20 years ago. Their stipulations seem difficult in more [some] cases of being put into practice and not exactly in harmony with the present economic conditions. For instance, these treaties provide for not only the maintenance, but for an increase in the rate, of the existing export duty, [which] is entirely incompatible with modern practices. Moreover, in devising a common schedule of tariff by readjustment of the numerous complicated and conflicting interests of the powers, the plan would encounter serious obstacles, perhaps impossible of being overcome within the time that is at the disposal of this conference. On the contrary, under the first plan, the steps to be taken would be definitely decided upon at this conference. At the same time, it would give each interested Power ample time, during the preparatory period, for

arriving at a separate agreement with the Chinese Government on the subject of special tariff, while China, upon the abolition of likin and the removal of other obstructions to trade, will be able to enforce a national customs tariff law with the full accord of the Powers. It is by far the simpler and more practicable means [to] set China on the direct road to tariff autonomy.'

Mr. Strawn, in [behalf] of the American delegation, expressed willingness to go beyond the Washington treaty, and to accord to China relief, but wished to be fully advised as to the plans for the abolition of likin which must be accomplished coincidently with the institution of tariff [autonomy].

Mr. Kauffmann, Danish delegate, who spoke after Mr. Strawn, made a statement virtually to the same effect.

The Belgian delegate accepted in principle the proposal to accord China tariff autonomy enforcement, suggesting that a transitory period should precede it[s] going into force and expressing the hope that this period be as short as possible.

The French delegate [said] that he was prepared to consider it [in] the most friendly and generous spirit and to submit to his Government any reasonable proposals which might be put forward by the Chinese to meet their aspirations in regard to the customs tariff.

Mr. Oudendijk stated that the right of tariff autonomy [is] an inherent sovereign right and that the Netherlands Government would do its best to arrive at a satisfactory settlement of the question.

The Italian [delegate] said that the proposals would be examined in the friendliest spirit and that the complete abolition of likin must precede full tariff autonomy.

The Portuguese delegate said that he expected that the proposals issued at the conference will lead to complete tariff autonomy.

The Norwegian delegate gave his assent in principle to proposal Number one of the Chinese program but requested more definite information.

The Spanish delegate said that he would give support to all resolutions favorable to China adopted at this conference.

The Swedish delegate withheld definite commitments in the absence of instructions from his Government.

The British delegate took a similar attitude, saying, however, that the British delegation was prepared to discuss the proposals to establish tariff autonomy in the widest spirit but wished time to consider them.

Following the presentation of these views, Dr. Wang read the following memorandum on the abolition of likin:

'1. Measures leading to the abolition of likin and the dates.

Inasmuch [as] the Special Conference [on] Chinese Customs, being inspired by the spirit of the Washington Conference [in] its respect for China's sovereignty, is aiming at tariff autonomy, there should be a determination to abolish likin which prejudices the economic growth of the Chinese people, so that their productive energy may thereby be developed.

On the other hand, likin and commut[ation] tax or duty partaking of the nature of likin hitherto collected by the provinces constitute the main source of revenue for the province[s].

Therefore, it appears impossible to abolish such taxes all at once. It is necessary to divide into different period[s] within which to execute the plan of likin abolition, for the authorities concerned of the Central Government have to examine carefully all the details relating to likin such as the various original denominations, rules governing their collecting, location of the barriers, forms of certificates and passes, and the receipts, et cetera. After such examination, different steps have to be taken.

It is now proposed that, in conformity with the annexed table relating to the procedure for likin abolition, the different provinces should, beginning from December, 1925, and within a period of six months, prepare reports, and, at the same time, commissioners should be sent to the provinces for investigation. The results of the investigations should, within another period of six months, be conjointly examined by the Ministry of Finance and the Commission for the Reorganization of Finance. A fund should be provided enough to compensate likin for one year. At the end of February, 1928, the plan for likin abolition will be completely executed.

2. Means for the compensation of the abolition of likin and the fund for the same purpose.

Although no accurate statistics are available [as to] the revenues derivable from likin for the different provinces, the approximate total amount [is] estimated at 70 million silver dollars per year. It is feared that after the abolition of likin the [provincial revenue] might suffer a great loss. The Central Government should, therefore, provide in advance a special fund to compensate the losses after investigation, and to remit the various [quotas] to the different provinces according to their respective annual deficits resulting from likin abolition. For this purpose, two different periods are proposed. During the first period, a portion of the increased customs revenue derivable from the surtaxes should [be] appropriated for compensation as stated in [the] first paragraph for one year. During the second period, when tariff autonomy [is] put into force, appropriation should be made out of the customs revenue itself. It is evident that after the means for the compensation of likin have been revised, a reliable fund will thereby be secured so that the provincial revenues will not be affected and likin can actually be abolished.'

Following this statement a memorandum was submitted showing in detail the measures to be taken by the Chinese Government in the interim period before the going into force of tariff autonomy, [such as] issuance of bonds for the compensation of likin abolishment and for constructive purposes, distribution of funds to various provinces as compensation for likin, the abolition of inland transit dues—which contemplates a gradual abolishment of all such taxes."

500.A 4 e/443 : Telegram

The Secretary of State to the American Delegation

[Paraphrase]

WASHINGTON, October 31, 1925—6 p. m.

2. Your 6, undated, received October 30, 1:45 p. m.

1. Situation described in paragraph 4 of your telegram is fully understood by the Department. For this reason your suggestion that we make reasonable concessions to meet the demands of China is approved. As was indicated in our telegram 282, October 5, 1 p. m., the Department is skeptical of the final success of negotiations which involve an undertaking for the abolition of likin on the part of the present Chinese administration or of any government which is likely to succeed it. Since, however, the Chinese delegation has made a proposal which includes a plan for the abolition of these provincial taxes and as this certainly is to the advantage of foreign trade, the Department considers that it is best to encourage the Chinese to put this proposal into effect. The Department sees no objection to your working on the basis outlined in the paragraph numbered 2 in your telegram.

2. Department suggests that you consider whether it is possible to deduct from sums allotted to a province which collects protested likin the amount of any rebates made by the Chinese Customs Administration as provided in your section (h). In this way the province would have to assume certain responsibility.

3. With reference to your paragraph 3, the Department suggests the following order for the disposal of revenue derived from the surtax: (1) to compensate provinces for the loss of likin; (2) to pay the rebates mentioned in your paragraph 2, section (h); and (3) for the Central Government's administrative expenses and the refunding of unsecured debts equally.

KELLOGG

500.A 4 e/449 : Telegram

*The Minister in China (MacMurray) to the Secretary of State*⁷⁹

PEKING, November 4, 1925.

[Received November 4—8 p. m.⁸⁰]

Conference summary number 4. Committee on tariff autonomy held its second [session] November 3d, all members being present.

⁷⁹ This telegram was received badly garbled. The quotations as here printed have been corrected, without indicating changes, on the basis of the minutes of the committee as published in *The Special Conference on the Chinese Customs Tariff*, pp. 87 ff.

⁸⁰ Telegram in four sections.

The British delegate made the following statement:

"The British delegation, recognizing the inherent right of all independent and sovereign states to tariff autonomy, and considering that the fulfilment of the provisions of the treaty of Washington of February 6th, 1922, will constitute a step towards the attainment by China of such autonomy, formally declare that, in addition to the carrying out of the terms of that treaty, they are willing to submit to the ratification of their Government such further measures as may be devised and agreed upon at this conference, with a view to ensuring within a reasonable period the full realization of China's claim to complete liberty of action in matters relating to her tariff."

The Swedish delegate declared himself in accord with the British delegate's statement.

Mr. Hioki, the Japanese delegate, presented the following proposal on behalf of the Japanese delegation:

"1. The contracting powers, other than China, hereby solemnly declare their recognition of the principle that, as an inherent right of a sovereign state, China is to enjoy full autonomy with respect to customs tariff.

2. China shall recover the exercise of her tariff autonomy in the manner indicated in the following paragraphs.

3. China shall establish immediately a national tariff law with a schedule appertaining thereto, to be put into force within a period of three years and upon the abolition of likin by China, as declared by her.

4. During the interim period mentioned in the preceding paragraph, China may levy on articles of import a surtax as authorized in paragraph 2 of article 3 of the Washington treaty.

5. During the same interim period, China, on the one hand, and the other contracting powers, on the other, shall conclude severally treaties, which may incorporate reciprocal conventional tariffs to be applied on certain special articles if so desired by both parties. The new treaties so concluded shall continue in force for a certain definite period.

6. The national tariff law mentioned in paragraph 3 shall become operative, so far as the treaty powers are concerned, simultaneously with the enforcement of the treaties above mentioned.

7. The new treaties to be concluded shall supersede the existing treaties between China and the other contracting powers in matters relating to customs tariff."

Following this presentation Mr. MacMurray, on behalf of the American delegation, proposed the following plan:

"The Chinese delegation have asked, in Dr. Wang's speech at the opening session of this conference, on October 26, that the powers declare their respect for the principle of China's tariff autonomy and agree to the removal of tariff restrictions contained in existing treaties. They have affirmed that it is the intention of the Chinese Government to abolish likin. They have asked that interim surtaxes be levied and that agreements which may be concluded at this conference shall be made effective at an early date.

Desiring to follow out as closely and as far as possible the programme which has been proposed by the Chinese delegation, and hoping that this conference may arrive at agreements which will make possible the realization of China's aspirations and at the same time properly safeguard the legitimate interests of all powers and people who will be affected:

We are prepared, in accordance with the provisions of the Washington treaty, to authorize at once the levying of the surtax of $2\frac{1}{2}\%$ and, as soon as the requisite schedules can be prepared, to authorize the levying of a surtax of 5% on luxuries.

We are prepared to proceed at once with the negotiation of such an agreement or agreements as may be necessary for making effective other provisions of the Washington treaties of February 6, 1922.

We affirm the principle of respect for China's tariff autonomy and are prepared to negotiate a new treaty that shall give effect to that principle and which shall make provision for the abolition of likin, for the removal of tariff restrictions contained in treaties and for putting into effect of the Chinese national tariff law.

To carry out the provisions of the Washington treaty and at the same time proceed with the larger programme contemplated, we suggest:

I. That the powers, other than China, authorize the levying of a surtax of $2\frac{1}{2}\%$ on all goods to be effective on February 1, 1926, and that there be prepared immediately a schedule of luxuries upon which a rate of 5% shall be authorized to be effective not later than July 1, 1926. The increased revenues thus derived shall be held by the Customs Administration subject to such disposition as may be agreed upon by this conference.

II. That provision shall be made for the levying of the full amount of these surtaxes at the land frontiers.

III. That a new treaty be made which shall provide:

1. Three months after the treaty here concluded shall come into force the Chinese shall be at liberty, as an interim measure, and until tariff autonomy shall become effective, to impose a new and uniformly enforced schedule of duties at rates from 5% (the present rate) to $12\frac{1}{2}\%$ on imports and from 5% (the present rate) to $7\frac{1}{2}\%$ on exports.

2. That from the same date, the rates of duty levied at all land frontiers shall be the same as those levied at the maritime frontiers.

3. That the increase of the customs revenues derived from putting into effect these provisions shall be accumulated by the Customs Administration and applied for the purposes herein-after specified.

4. That likin and related internal taxes which may be agreed upon shall be abolished.

5. That for the purpose of abolishing likin, funds from the customs revenues shall be apportioned among the provinces in lieu of likin.

6. That if likin be collected anywhere in violation of agreements entered into for its abolition, the taxpayer shall be entitled to a refund from the Customs Administration of the full amount which he paid as likin.

7. That the increase in the customs revenues derived from the increase in rates of duty shall be devoted to the following purposes:

- (a) Compensation to the provinces in lieu of likin;
- (b) Payment of rebate charges;
- (c) Refunding of the unsecured debts;
- (d) Administrative expenses of the Central Government.

8. That, subject to the fulfillment of the provisions of articles 4, 5, 6, and 7 above, the present treaty restrictions on the Chinese tariff shall cease to be effective and the Chinese national tariff law shall come into force January 1, 1929, as suggested by the Chinese delegation.

9. That an effort be made to devise a plan whereby it may be reasonably expected that this treaty will go into force at an early date after signature.

10. If requested by a majority of the contracting powers before January 1, 1928, China shall convene on May 1, 1928, a conference of representatives of the contracting powers, for the purpose of declaring whether likin has been abolished and of negotiating any further agreements that may need to be arrived at with regard to the subject matter of this treaty."

[Apparent omission. The quotation which follows is the declaration of the Chinese Government regarding the abolition of the likin system read by the chairman of the committee:]

"There is no greater detriment to the economic development of China than the likin system, since it constitutes a great obstacle to the wide distribution of goods and the expansion of commerce, and results in diminishing the productive power of the country and impoverishing the people. The sources of revenue and the purchasing power of a nation are both dependent upon the productiveness of its people. In China, this productiveness is now so seriously affected by this obnoxious likin tax that her sources of revenue are exhausted, her revenue decreased, her purchasing power weakened, and her international trade crippled.

In the history of economics, development began with the family and passed on to the community; then it extended to the nation and thence to the entire world. Today this development has reached the national stage and it is gradually approaching the international phase. Unfortunately in China, owing to the existence of this obnoxious tax, the output of raw materials and manufactured articles is insufficient to meet the demands of the nation and of the world—a state of things which is much to be deplored.

The Chinese people have for years been clamouring for the abolition of this tax, and the Central Government has created a Financial Rehabilitation Commission composed of representatives of the military and civil authorities of the whole country. It is fully recognized that no half-way measures would meet the situation and that, if the problem is not thoroughly dealt with, there would be no possibility of improving the welfare of the nation.

After mature consideration it has been decided to abolish the likin system, so that the economic welfare of the people as well as foreign commerce may alike be benefited, the foundations of national finance firmly established, and the international relations of the country likewise strengthened.

The Chinese Government hereby declares that the abolition of likin will be completely carried out not later than the first day of the first month of the 18th year of the Republic (1929)."

The committee then adjourned subject to the call of the chairman. The committee on provincial [*provisional*] measures will meet on Friday, November 6.

MACMURRAY

500.A 4 e/464 : Telegram

The American Delegation to the Secretary of State

PEKING, November 14, 1925—3 p. m.

[Received 3:15 p. m.]

Conference 10. Chinese delegates this morning presented the following resolution:⁸¹

"The contracting powers other than China hereby declare their recognition of China's right to enjoy tariff autonomy.

China hereby declares her intention to abolish likin and further declares [that] the Chinese national tariff law will come into force upon the abolition of likin."

We objected because we have no power to commit our Government. British delegation proposed the following for incorporation in the preamble of the instrument bringing into effect the 2½ and 5 percent surtaxes contemplated by the Washington treaty.

"The delegations of the contracting powers, other than China, having declared their intention to recommend to their respective Governments the immediate adoption of a treaty which shall recognize the principle of China's right to enjoy tariff autonomy, and China having declared her intention to abolish likin, it is agreed that the treaty [*treaties*] shall provide that the Chinese national tariff law shall come into effect upon the abolition of likin."

We indicated our approval but the Chinese considered it unsatisfactory.

In the end the drafting of a formula embodying the sense of the conference with regard to tariff autonomy and the abolition of likin was referred to a subcommittee consisting of C. T. Wang, Strawn, Hioki, Macleay and Oudendijk.⁸²

AM[ERICAN] TAR[IFF] DEL[EGATION]

⁸¹ In meeting of committee on provisional measures.

⁸² Chinese, American, Japanese, British, and Netherlands delegates.

500.A 4 e/465 : Telegram

The American Delegation to the Secretary of State

PEKING, November 17, 1925—3 p. m.

[Received November 17—11:17 a. m.]

Conference 11. 1. The Chinese have apparently begun a propaganda campaign of which the following interview given by C. T. Wang to a local news agency and appearing in this morning's press is an example. I have confirmed fact that Wang's statements were substantially as herein quoted:

"There are two precedents for China to follow in her fights for the recovery of the custom autonomy, namely, the Japanese and the Turkish example. China is now following the Japanese example, as she chooses to regain her tariff autonomy by negotiation with the powers at the Special Customs Conference but if our friendly powers are unable to accept our demands the only alternative for China will be to follow the Turkish example by making a declaration abrogating all her customs treaties with them. And when this eventuality should come to pass I hope that liberal leaders in various countries will realize the necessity of this step."

Dr. Wang went on to say that he and his colleagues were determined to put [up] a vigorous fight for the restoration of full tariff autonomy at the Special Tariff Conference in accordance with the expressed will of the people and the instructions of the Government. What the Government and people demanded was not an increase of custom receipts but the recovery of lost sovereign rights and for this reason no mere promises except a clear and definite declaration on the part of the powers that they recognize the right of China to enjoy full tariff autonomy would satisfy the Chinese people and delegates.

"All such expressions from foreigners as that we recognize the right of China to tariff autonomy in principle, or that we recommend to our home Governments that tariff autonomy be conceded to China, we do not want to hear," continued Dr. Wang. "If we cannot recover our tariff autonomy we had better close the conference and resort to other means to attain our object." Turning to the question of the abolition of likin Dr. Wang said that China was firmly determined to effect the abolition of this tax within the stipulated period, however this was an internal problem of China and while the Chinese Government was ready to abolish it on its own initiative it would never agree to the demand of the foreign powers that restoration of tariff autonomy be made conditional on the ability of China to abolish likin.

2. [Paraphrase.] It is likely that the Chinese delegation will insist that granting of tariff autonomy will not be dependent upon the

abolition of likin, that the powers must not insist upon any conditions with respect thereto as indicated in our plan but must accept China's word for it that likin will be abolished. The Chinese may also insist upon their proposal that in the event of the abolition of the present Customs Administration a tariff commission shall take over the custody of the customs funds. We do not feel that we can accept such a plan, as virtually it would amount to our consenting to the denunciation of all China's tariff treaties. We feel that if China should really be determined upon repudiating treaty obligations we should not acquiesce but should allow the entire responsibility for such action to rest clearly upon China. We think that with the possible exception of the Japanese all the powers agree with us. The Japanese believe that the abolition of likin is impossible and the indications are that they will take their chances on likin and insist upon their plan for a conventional tariff. We do not believe the Chinese will accept the Japanese proposal. [End paraphrase.]

AM[ERICAN] TAR[IFF] DEL[EGATION]

500.A 4 e/469 : Telegram

The American Delegation to the Secretary of State

PEKING, November 19, 1925.

[Received November 19.]

Conference summary number 6. Following is the press communiqué issued by the conference today:

"Committee two of the Special Conference on Chinese Customs held its fourth meeting at Chu Jen Tang on Thursday, November 19, 1925, at 10 a. m.

Dr. C. T. Wang was in the chair and all the members were present.

The committee, sitting jointly as committees one and two, adopted the resolution on tariff autonomy unanimously recommended by the subcommittee, which reads as follows:

"The delegates of the powers assembled at this conference resolve to adopt the following proposed article relating to tariff autonomy with a view to incorporating it together with other matters to be hereafter agreed upon in the treaty which is to be signed at this conference:

The contracting powers other than China hereby recognize China's right to enjoy tariff autonomy, agree to remove the tariff restrictions which are contained in existing treaties between themselves respectively and China, and consent to the going into effect of the Chinese national tariff law January 1st, 1929.

The Govt. of the Republic of China declares that likin shall be abolished simultaneously with the enforcement of the Chinese national tariff law and further declares that the abolition of likin

shall be effectively carried out by the first day of the first month of the eighteenth year of the Republic of China (January 1st, 1929).'

A general discussion took place on the subjects of the purposes for which the proceeds of the surtaxes were to be devoted and the rates of the surtaxes. It was decided to appoint two subcommittees: one on purposes and another on rates.

Subsequently the committee resolved itself into the subcommittee on purposes and it was decided to appoint two technical committees: one on likin and another on other purposes.

The meeting adjourned at 12:15 subject to the call of the Chair."

AM[ERICAN] TAR[IFF] DEL[EGATION]

500.A 4 e/475 : Telegram

The American Delegation to the Secretary of State

PEKING, November 24, 1925—6 p. m.

[Received November 24—9:55 a. m.]

Conference 13. 1. With reference to conference summary 6, the technical committee on likin met morning of November 21st, when discussion centered on definition of likin. Chinese agreed to give a careful consideration to this question and to produce a formula at the next meeting.

2. Technical committee on other purposes met afternoon November 21st, when Chinese produced statement setting forth external obligations Ministry of Finance. Foreign delegations took position that a complete statement of the Chinese Government was necessary before the matter of refunding the unsecured debts in connection with increased customs charges could be intelligently dealt with.

3. Subcommittee on rates met morning November 23; when foreign delegations took firm position that definite information concerning the proposed financial requirements of the Chinese Government with regard to likin abolition, debt refunding, et cetera, was condition precedent to discussion of what rates were to be applied to meet these requirements.

4. Further meetings of committees are adjourned pending the production by Chinese delegation of information on matters above referred to.

AM[ERICAN] TAR[IFF] DEL[EGATION]

500.A 4 e/478 : Telegram

The Secretary of State to the American Delegation

[Paraphrase—Extract]

WASHINGTON, November 30, 1925—4 p. m.

5. The French Ambassador called on November 27 . . .

He told me that apparently his Government thought that the Chinese were getting rather the better of the other delegates, that in granting tariff autonomy to the Chinese without making the abolition of likin a correlate we were too easy with them, and that there should be an agreement of some sort that no other kind of tax should be imposed in place of likin.

I informed the Ambassador that the American delegates had been given no specific instructions as to the form of declaration with respect to tariff autonomy and likin, that as I understood it the delegations were agreed in principle on the granting of tariff autonomy on January 1, 1929, the Chinese to abolish likin in the meantime, that a committee had been appointed to consider likin and that doubtless it would define likin in a manner to prevent the Chinese from replacing it with a tax substantially identical. I informed the Ambassador also that I did not think the American delegates had taken any special lead in granting concessions to the Chinese.

KELLOGG

500.A 4 e/480 : Telegram

The American Delegation to the Secretary of State

[Paraphrase]

PEKING, December 2, 1925—1 p. m.

[Received 3:05 p. m.]

Conference 14. Your telegram No. 5 of November 30, 6 [4] p. m. We fear situation here is not fully understood by the French Ambassador. He indicates we are making all the concessions to the Chinese, while the Chinese delegates say we are taking the lead in driving too hard bargains. Our attitude is shown by the reports you have. As China is in a state of revolution it is obvious that we cannot treat with her as we would with a nation. Our view is that we must get the very best offer the Chinese can be persuaded to give us and then decide which we prefer, their offer or the denunciation of all the treaties and the chaos that would result. Now we are waiting for China's statement on her unsecured debts and for her definition of likin. If the Chinese will give a satisfactory definition of likin so that double burdens will not be placed

on foreign goods, we think that the tariff rates proposed for tobacco and other commodities would not be prohibitive and that it would be better for us to accept the schedule than to risk the results if we take too controversial a stand. We shall continue to insist that likin be abolished as a prior condition to conceding effective tariff autonomy, but the chance of likin being effectually abolished by China is small and we might be unable to enforce the carrying out of her agreement to do so. For that reason if the definition of likin is satisfactory and if China will agree to deposit a portion of the customs revenue allocated to the liquidation of unsecured debts with some foreign custodian we might waive the precedent condition regarding likin.

We had a visit yesterday from Admiral Tsai Ting-kan who maintains liaison between the American and Chinese delegations. He called to inquire as to the truth of reports that some delegations were beginning to consider the advisability of withdrawing from the conference or suggesting its postponement because of the existing disturbed political conditions. He was informed that we had heard nothing of this kind and that our delegation did not have in mind any such move. This statement seemed to relieve him. He observed that for the foreign delegations to make any move toward adjourning the conference would be playing directly into the hands of the radical element in China who would like to see the conference broken off. He added that it was the plan of the Chinese delegation to convene the committees from time to time so as to keep the conference going and enable it to survive the present period of uncertainty in political affairs until the present Cabinet should be re-formed,⁸³ when greater progress could be made.

AM[ERICAN] TAR[IFF] DEL[EGATION]

500.A 4 e/493 : Telegram

The Secretary of State to the American Delegation

WASHINGTON, December 4, 1925—9 p. m.

6. Your Conference 13, November 24, 6 p. m., and 14, December 2, 1 p. m. The Department has received a letter dated November 30 from the Secretary of the Committee of the American Material Creditors of the Chinese Government,⁸⁴ stating among other matters that "members of the Committee have been advised by their Peking representatives that the Chinese delegates will demand the exclusion of all material debts of the Ministry of Communications not only

⁸³ See telegram No. 549, Dec. 28, from the Minister in China, p. 627.

⁸⁴ Not printed.

from payment from the proceeds of the increase in Customs revenues but even from payments from the proceeds of the bonds which are to be issued under the general plan for the consolidation of the unsecured debts of China which is under discussion." The Department would appreciate receiving information in regard to the matters referred to above in order to enable it to reply to the Committee's letter.

KELLOGG

500.A 4 e/488 : Telegram

The American Delegation to the Secretary of State

PEKING, December 7, 1925—noon.

[Received December 7—5:30 a. m.]

Conference 15. Your Amtar 6, December 4, 9 p. m. Peking representatives of material as well as of all other creditors are kept constantly and fully advised of our strenuous and persistent efforts to obtain payment or adjustment of their claims on best possible terms. We have not been told by China delegates that they intended to repudiate claims of material creditors or to exclude them from any plan for consolidation or refunding unsecured debts.

AM[ERICAN] TAR[IFF] DEL[EGATION]

500.A 4 e/549

Mr. Silas H. Strawn, of the American Delegation, to the Secretary of State

[Extract]

PEKING, December 30, 1925.

[Received January 28, 1926.]

DEAR MR. SECRETARY: I may summarize what has transpired since my letter of December 9th,⁸⁵ as follows:

1. On account of the war along the right of way, no train service between Tientsin and Peking from December 8th until December 24th, since then trains daily but requiring almost 24 hours to make the distance of 100 miles. This due to troop movement and war conditions.

2. No meetings of the Conference except two called by the Chinese to demonstrate to the people that the Conference was still functioning.

With renewed assurances [etc.]

SILAS H. STRAWN

⁸⁵ Not found in Department files.

CONVENING OF THE COMMISSION ON EXTRATERRITORIALITY IN CHINA, PROVIDED FOR BY RESOLUTION V OF THE WASHINGTON CONFERENCE⁸⁶

500.A 4 e/226 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, July 2, 1925—3 p. m.

130. Tokyo's No. 118 July 1, 4 P. M. to the Department.⁸⁷

With reference to MacMurray's⁸⁸ informal conversation with Shidehara. Department notes MacMurray's opinion that it would be better if the extraterritorial commission were convened at a fixed date after the completion of the work of the economic conference. The Department does not agree that this commission should wait upon the completion of the work of the economic conference. This Government is ready to proceed with that commission at the earliest date that can be fixed. You will bring this to the attention of MacMurray.

KELLOGG

793.003 C 73/183b

The Secretary of State to Mr. Silas H. Strawn

[Extract]

WASHINGTON, September 10, 1925.

SIR: There is transmitted herewith your commission, signed by the President, as the American member of the Commission to inquire into the present practice of extraterritorial jurisdiction in China, established in accordance with the Resolutions Regarding Extraterritoriality in China adopted by the Washington Conference on the Limitation of Armament at the Fourth Plenary Session, December 10, 1921.⁸⁹ It is believed that the language employed in these resolutions is sufficiently clear and precise to indicate the nature and scope of the work of the Commission, and that no further instructions are therefore needed with respect to your duties as a member of it.

I am [etc.]

FRANK B. KELLOGG

⁸⁶ For previous correspondence regarding the meeting of the Commission on Extraterritoriality in China, see *Foreign Relations*, 1924, vol. i, pp. 521 ff.

⁸⁷ *Ante*, p. 836.

⁸⁸ John V. A. MacMurray, newly appointed Minister to China, in Japan en route to his new post.

⁸⁹ *Foreign Relations*, 1922, vol. i, pp. 289-291.

793.003 C 73/163a : Circular telegram

The Secretary of State to the Chargé in Japan (Neville) ⁹⁰

WASHINGTON, September 15, 1925—6 p. m.

You will communicate the following to the Foreign Office of the Japanese Government.

"Resolution V adopted by the Washington Conference on December 10, 1921, provided 'That the Governments of the Powers above named shall establish a Commission (to which each of such Governments shall appoint one member) to inquire into the present practice of extraterritorial jurisdiction in China, and into the laws and the judicial system and the methods of judicial administration of China, with a view to reporting to the Governments of the several Powers above named their findings of fact in regard to these matters, and their recommendations as to such means as they may find suitable to improve the existing conditions of the administration of justice in China, and to assist and further the efforts of the Chinese Government to effect such legislation and judicial reforms as would warrant the several Powers in relinquishing, either progressively or otherwise, their respective rights of extraterritoriality.'

On September 4, 1925, the Governments of the nine Powers that participated in the Washington Conference addressed identic notes to the Chinese Government ⁹¹ in reply to its identic note to the same Powers of June 24, 1925, ⁹² with reference to the question of treaty revision. Referring to the question of the relinquishment by the Powers of their extraterritorial rights the Powers stated, 'My Government is now ready to appoint its Commissioner to sit with the Commissioners of the other interested Governments in accordance with that Resolution. It hopes that that Commission may be able to begin at an early date its investigation of the existing conditions of the administration of justice in China and to make a report which will serve as a basis for recommendations to be made, in pursuance of the resolution, for the purpose of enabling the Governments concerned to consider what if any steps may be taken with a view to the relinquishment of the extraterritorial rights.'

The Government of the United States desires most earnestly to have before it in the near future for consideration, the report of that Commission and to that end has named as its Commissioner an eminent American lawyer, Mr. Silas H. Strawn of Chicago. In order that the Commission may begin its work with as little delay as possible, the Government of the United States suggests that December 18, 1925, be accepted by the interested Powers as the date upon which it will commence its functions at Peking. As regards the manner in which the Commission will perform its work, the Government of the United States believes that this should be left to the

⁹⁰ The same, *mutatis mutandis*, to the Ambassador in Peru, and also to the Ambassador in France with instructions to repeat to the diplomatic representatives in Belgium, Denmark, Great Britain, Italy, the Netherlands, Portugal, Spain, and Sweden.

⁹¹ *Ante*, p. 831. The identic notes were sent to China by the eight powers who in addition to China participated in the Washington Conference.

⁹² See telegram No. 247, June 24, from the Chargé in China, p. 763.

Commission which should be guided [as?] to its duties and the intentions of the Governments by the letter and spirit of Resolution V and the Powers' note to China of September 4th."

You will express the hope of this Government that the Government of Japan will find itself able to accept the date mentioned and that it will inform you so that this information can be communicated to the Chinese Government.

KELLOGG

793.003 C 73/188d : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, *October 20, 1925—4 p. m.*

299. Department's telegram No. 246, September 12, 2 p. m., and your No. 397, September 14, 4 p. m.⁹³ You will inform the Chinese Government that following Governments have accepted December 18, as the day, and Peking as the place, for the commencement of the sessions of the Commission on Extraterritoriality provided for under Resolution 5 adopted by the Washington Conference on December 10, 1921: Great Britain, Belgium, The Netherlands, Italy, Spain, Portugal, Denmark, Sweden, Peru, Japan, France and the United States. Norway, although invited to adhere to the Resolution, appears never to have filed notification of its adherence and therefore was not asked to accept this day. You will state that, in performing its work, the Commission is to be guided as to its duties and intentions by the letter and spirit of Resolution 5 and the Powers' note to China of September 4.

KELLOGG

793.003 C 73/197

The Secretary of State to the Minister in China (MacMurray)

No. 103

WASHINGTON, *November 18, 1925.*

SIR: Adverting to previous correspondence with regard to conversations at the Department with the Chinese Minister on the subject of the situation in China, there is summarized below, for your confidential information, the substance of a conversation between myself and Doctor Sze on November 10, 1925.

The Chinese Minister discussed with me the Extraterritoriality Commission and stated that he thought the powers of the Commission should be enlarged to authorize it to make a report on which extraterritoriality could be abolished or substantially the same thing.

⁹³ Neither printed.

I informed him that such was the object of the identic note⁹⁴ and that the identic note and Resolution V gave the Commission full authority to make any recommendations it saw fit.

Dr. Sze then stated that he wanted the Commissioners to be given plenipotentiary powers to negotiate a treaty for abolition. I told him I did not think that wise; it would make it necessary for me to start negotiations all over again with all the Governments concerned and it would be better to wait until the report of the Commission was received, after which there would either be a new conference with appointees having full power to negotiate or each country would have to negotiate separately. The Chinese Minister then cabled his Government as follows:

"Saw Kellogg today. While he is sympathetic he opines it would be useless to approach other Powers again reference Extraterritorial Commission. Commission will have power to consider any plan which China may propose and recommend to their several governments one identic plan, or if not unanimous, each Commissioner report his own findings and conclusions. Basing upon such results the governments either separately or jointly negotiate with China for relinquishment of extraterritoriality."

I am [etc.]

FRANK B. KELLOGG

793.003 C 73/203

The Norwegian Minister (Bryn) to the Secretary of State

WASHINGTON, November 20, 1925.

SIR: With reference to the provisions in the first Additional Resolution⁹⁵ to the Resolution regarding Extraterritoriality in China, adopted by the Conference on the Limitation of Armament at Washington on December 10, 1921, I have the honor, acting under instructions from my Government, to inform Your Excellency that the Norwegian Government, by an Order in Council of October 23, 1925, has acceded to the said Resolution regarding Extraterritoriality in China, with two Additional Resolutions.

Accept [etc.]

H. BRYN

793.003 C 73/228 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 17, 1925—3 p. m.

[Received December 17—9:09 a. m.]

532. Opening of Extraterritoriality Commission which should take place tomorrow will be delayed until arrival of Belgian, British,

⁹⁴ Note of September 4 to the Chinese Minister for Foreign Affairs, p. 831.

⁹⁵ *Foreign Relations*, 1922, vol. I, p. 291.

French and Italian Commissioners who are detained at Tientsin by the interruption of all means of communication in consequence of factional fighting now in progress. In spite of Chief Executive's orders to both parties to facilitate arrangements for the operation of an international train it has not yet been possible to effectuate such an arrangement with Marshall Feng's commander here. Repeated to Tokyo.

MACMURRAY

792.003 C 73/235 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 4, 1926—4 p. m.

[Received January 4—8:14 a. m.]

3. Referring to your number 2, January 2, 7 p. m.⁹⁶ All Commissioners having arrived, the Extraterritoriality Commission will convene on January 8.⁹⁷

MACMURRAY

CONTINUED SUPPORT BY THE UNITED STATES TO THE FEDERAL TELEGRAPH COMPANY IN EFFORTS TO OBTAIN EXECUTION OF ITS CONTRACT WITH THE CHINESE GOVERNMENT⁹⁸

893.74/502

The Japanese Embassy to the Department of State

MEMORANDUM

In February and March 1918, the Mitsui Bussan Kaisha Ltd. entered into contracts with the Chinese Ministry of the Navy for the establishment of a high power wireless station in China and these contracts were duly approved and accepted by the Chinese Government. Subsequently, in January and September, 1921, the Federal Telegraph Company signed with the Chinese Ministry of Communications contracts of a similar nature conflicting in many ways with China's prior commitments to the Mitsui Company.⁹⁹ The anomalous situation thus created gave rise to protracted discussions between the Governments of Japan and of the United States, without, however, any appreciable result. Attempts were made at the Washington Conference to find a more comprehensive plan of settlement, with the

⁹⁶ Not printed.

⁹⁷ The Commission did not meet until Jan. 12, 1926.

⁹⁸ Continued from *Foreign Relations*, 1924, vol. I, pp. 570-580.

⁹⁹ For texts of the contracts, see *List of Contracts of American Nationals With the Chinese Government*, etc., annex viii (Washington, Government Printing Office, 1925).

participation of other Powers interested in China. Once more these efforts proved unavailing.

2. The points at issue between Japan and the United States on the subject may be summarized as follows:

(a) In the judgment of the Japanese Government, the exclusive right granted in 1918 to the Mitsui Company by the Chinese Ministry of the Navy respecting external wireless communications of China cannot be abridged or revoked by any arrangement which the Chinese Ministry of Communications may have made subsequently with the Federal Telegraph Company. On the other hand, it is contended by the American Government that the Mitsui's monopoly is inconsistent with the treaty provisions between the United States and China respecting the principle of equal opportunity, and that the conventional obligations of China preclude her from creating such a monopoly in favour of any foreign nationals. Without entering into a detailed examination of the treaty provisions in question, it will be conceded that international precedents are not wanting in support of an exclusive right of the nature now under review, which, in the conduct of certain undertakings, and more particularly in the case of radio enterprise, is necessary to ensure, for a definite period of time, a reasonable profit on the investment. The contract of September 1921 of the Federal Telegraph Company seems to afford in itself an example of such right, since under Article 14 of that contract the Company is to be exclusively authorized to handle radio communications between the United States and China during twenty years.

(b) It is further held by the American Government that the claim of the Mitsui Company in question is incompatible with the basic principle of equal opportunity laid down in Article 3 of the Nine-Power Treaty of Washington.¹ It should, however, be observed that the Mitsui contracts had been concluded long before an agreed definition of the principle of equal opportunity was adopted at the Washington Conference. Moreover, the prohibition of monopoly or of preference contained in the first paragraph of the cited Article of the Nine-Power Treaty is qualified by the provisions in the second paragraph of the same Article, which permit the acquisition of such properties or rights as may be necessary to the conduct of a particular commercial, industrial or financial undertaking, and which, in the opinion of the Japanese Government, properly cover the case of wireless enterprise.

(c) The Japanese Government are not unmindful of the needs of the United States to secure an efficient radio service across the Pacific, to supplement the present inadequate cable service. The plan of the Mitsui Company is intended exactly to supply such needs, and if any

¹ *Foreign Relations*, 1922, vol 1, p. 279.

exclusive authorization to the nationals of one foreign country to work a wireless station in China should appear objectionable to the United States, the Japanese Government have already manifested their readiness to see the abandonment of the system of such exclusive operation by Japanese of the station constructed by the Mitsui Company. With this feature of exclusive operation definitely eliminated, there should remain no grounds for apprehension of discriminatory treatment, as among nationalities, in the working of the station.

3. It is reported that the cost of construction fixed at U. S. \$5,417,500 in the original contract of the Federal Telegraph Company was, under the supplementary agreement, raised to U. S. \$13,000,000, one-half of which is to be charged to the liability of China. She has already incurred obligations to the Mitsui and the Chinese National Radio Telegraph Company to an amount of approximately \$7,000,000 Silver. Upon the completion of the undertaking now contemplated by the Federal Telegraph Company, the whole indebtedness of China on account of wireless installations will thus reach the substantial figure of some \$20,000,000 Silver. This would surely aggravate the financial difficulties of the Chinese Government, which are already assuming serious proportions. It is also believed that the general conditions in China do not require or justify the immediate establishment of two high power wireless stations in that country. The unwisdom of such an extensive program will be evident when it is considered that even in the whole region of the highly commercialized Pacific Coast of the United States, there is only one trans-oceanic wireless station open for public use.

4. The Japanese Government are unable to bring themselves to the conclusion that they are in any way precluded from extending support to the present claim of the Mitsui Company. It has, however, now become manifest that any longer delay in the adjustment of the controversy will serve no useful purpose, either for the contending parties themselves or for China which is primarily responsible for this situation. Holding to the principle of international co-operation instead of international competition, and desiring to help China out of her present difficulty, the Japanese Government are willing to approach the question from a new angle that may lead to a speedy and practical settlement of the dispute.

5. Accordingly, without prejudice to the legal merits of the case, the Japanese Government now desire to propose that the principles governing the Consortium be applied to the contracts secured by the Mitsui Company and the Federal Telegraph Company.

These contracts are thus to be pooled and superseded by a loan agreement for wireless enterprise in China of the same nature as ordinary railway loans that may be undertaken by the Consortium.

The parties to the proposed loan agreement shall be, on the one side, the Chinese Government and, on the other, a financial group representing American, British, French and Japanese interests. The financial group is to consist of the Federal Telegraph Company, the Marconi Company, the French General Wireless Telegraph Company and the Mitsui Company, and is to be constituted upon full communication and understanding with the Consortium.

The operation of wireless telegraphy in question shall be placed under the exclusive control of the Chinese Government, while the financial group is to supply the services of engineers and accountants, in order to assist China in the enterprise.

6. The proposed solution is believed to be in line with the known policy of the American Government to promote international co-operation, and with all basic principles embodied in the Nine-Power Treaty of Washington. It provides, at the same time, for a lightening of China's indebtedness, as much desirable for herself as for all nations interested in the stabilization of that country. If, as is confidently hoped, the plan outlined is found acceptable, the Japanese Government will be happy to suggest further particulars of the measures for making it effective. They are also prepared to give serious and friendly consideration to any counter proposals that may be advanced by the American Government in order to compose the pending differences. In any case, they attach great importance to an early settlement of the question, which so long as it remains unadjusted, tends to disturb the relations of solidarity and mutual confidence among all the Powers concerned.

WASHINGTON, *December 24, 1924.*

893.74/504a : Telegram

The Secretary of State to the Minister in China (Schurman)

WASHINGTON, *December 27, 1924—1 p. m.*

317. Department's No. 308, December 9, 4 p. m.² Colonel Manton Davis, Assistant General Attorney, Radio Corporation, will sail for China at an early date to assist Barnes Moss in negotiations. It is understood Moss has sailed, or is about to sail, for China.

HUGHES

² *Foreign Relations*, 1924, vol. I, p. 580.

893.74/507 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, January 2, 1925—4 p. m.

[Received January 2—9:11 a. m.]

3. Your 317, December 17 [27], 1 p. m. Chiang, reappointed Director General of Telegraphs, has held several long discussions with the Legation regarding Federal contract from which it appears that the Ministry will take up with Moss and Davis question of changing type of apparatus and size and location of stations to correspond with radio development and acquisition of new stations by the Chinese Government since signing original Federal contract. Consequently they desire company to send representative possessed of extensive powers and accompanied by fully qualified expert. They desire completion Shanghai station earliest possible date.

Japanese opposition to Federal contract continues strong. Compagnie Générale de Télégraphie Sans Fil has an agent here who is pressing Ministry of Communication[s] to grant concession for developing complete system of radio telegraphy and telephony with broadcasting throughout China. Company to advance capital and have temporary exclusive rights until cost repaid. Additional security to be postal revenue.

SCHURMAN

893.74/507 : Telegram

The Secretary of State to the Minister in China (Schurman)

[Paraphrase]

WASHINGTON, January 7, 1925—4 p. m.

4. Department has communicated the Legation's telegram of January 2, No. 3, to Radio Corporation^{*} which informs the Department that Colonel Davis will be accompanied by an electrical expert, sailing within a few days for China.

It is suggested by the corporation that no action be taken on the matter of a concession for the French wireless company until after the fullest opportunity to lay the matter before the Government of China has been given Davis and Moss. This suggestion has the Department's concurrence and the Chinese Government may be so informed.

You will be forwarded by the American Embassy at Tokyo a copy of the Japanese Embassy's memorandum of December 24, 1924,⁴ which

^{*}For the interest of the Radio Corporation of America in the Federal Telegraph Co. contract, see *Foreign Relations*, 1922, vol. I, pp. 844 ff.

⁴*Ante*, p. 890.

proposed adjusting the controversy in regard to the Federal contract on a basis which in general is analogous with the consortium arrangement. Your comment on the proposal of the Japanese is desired by the Department.

HUGHES

893.74/516 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, January 23, 1925—1 p. m.

[Received 7:10 p. m.]

39. Your 4, January 7, 4 p. m.

1. Copy of the Japanese Government's proposal received from Tokyo January 13th and after careful consideration I offer the following comments:

2. The Federal contract constitutes a joint partnership between the American company and the Chinese Government in which the Government enjoys full reversionary rights. Consequently any proposal to pool the contract in a consortium or otherwise admit other interests to participation in its terms would require consent of the Government, which I am inclined to think could not be obtained. See my telegram of October [February] 10, 4 p. m., 1922, No. 44.⁵

3. To recognize that there are any difficulties to compose between the Japanese and American Governments in the matter of the radio contracts concluded with the Chinese Government is to admit that some validity attaches to the monopolistic claim advanced by Mitsui. This has been so often denied by the American Government on the following [*sic*] open-door principle that any apparent compromise based upon a withdrawal of this claim would be construed in China as a diplomatic defeat for the United States and its contempt and victory for Japan. Moreover if the Mitsui and Federal contracts were to be pooled in the proposed four-nation consortium, the Marconi contracts would presumably demand the same treatment. Hence the consortium would begin operations with approximately 12 million silver dollars of noncollectible indebtedness of the Chinese Government invested in commercially profitless undertakings. See enclosure No. 3, Legation's despatch 1994, December 23rd, 1923.⁶ I have always felt that in so desperately fighting the Federal contract on the basis of the Mitsui monopolistic clause the Japanese Government had three principal aims: 1st, secure reimbursement of the millions comparatively speaking wasted by Mitsui and the Japanese Government on the Peking station; 2d, secure prestige of diplomatic victory over

⁵ *Foreign Relations*, 1922, vol. I, p. 846.

⁶ Not printed.

the American Government; 3d, frustrate independent radio communication between China and America concerning which Japan appears insanely jealous. In consequence of the Department's stand as expressed in section 2 of the experts' recommendations⁷ and specifically in the Department's telegram 128, June 28, 6 p. m., 1923,⁸ rejecting consortium idea, this Legation has categorically stated that independent radio communication was insisted upon by the American Government.

4. Proposed wireless consortium appears to be substantially the same as the combination contemplated in the Viviani resolution⁹ and experts' Heads of Arrangements¹⁰ with which the Department refused to associate itself. Legation was informed by Schwerin February 12th, 1923, of telegram from the Radio Corporation reporting formation of combination of British, French, Japanese radio interests endorsed by Danish and British cable companies with Telefunken Company invited to join for wireless operations in China. I suggest present Japanese proposal thinly veiled attempt on behalf of this group to induce the American Government to withdraw objection to American participation.

5. While the Japanese Government's proposal provides for exclusive control of the contemplated facilities by the Chinese Government it is evident that as a financial safeguard control the stations until paid for would of necessity have to vest in the associated lenders. Under those circumstances I am of the opinion that terms satisfactory to the lenders would never be accepted by the Chinese Government and the sole result of the consortium plan would be to prevent creation of the Federal stations and leave the Mitsui Peking station in sole possession. Japanese allusion to the banking consortium is significant in view of its failure to accomplish anything constructive in four years' existence.

6. Even if satisfactory consortium arrangement were made it would seem possible for Japan to evade consortium restrictions through stations in South Manchuria Railway Zone or Leased Territory. I believe that by reason of contiguity of territory she would somehow manage to secure independent communication.

7. The Federal Telegraph Company has vested rights as to its contract which the Department probably desires to consult and possibly decision as to the Japanese proposal should be left to the company. From the standpoint of Chinese-American relations I consider acceptance of this proposal would mean advantage for Japan but

⁷ *Foreign Relations*, 1922, vol. I, p. 840.

⁸ *Ibid.*, 1923, vol. I, p. 805.

⁹ *Conference on the Limitation of Armament*, Washington, November 12, 1921-February 6, 1922, p. 1130.

¹⁰ *Foreign Relations*, 1922, vol. I, p. 842.

loss of prestige for the United States in the Orient and in loss also [of] much [of] the closer union with China anticipated from the Federal plan. It would be difficult to explain abandonment of the independent execution of the Federal contract after the unprecedented support hitherto given it by the American Government. In any event I earnestly advise the Department to defer action until Davis and Moss have arrived in Peking, for I still believe the Chinese Government desires purely Chinese-American control trans-Pacific radio even though Federal contract may require modification.

8. Repeated to Tokyo.

SCHURMAN

893.74/516 : Telegram

The Secretary of State to the Minister in China (Schurman)

[Paraphrase]

WASHINGTON, January 28, 1925—3 p. m.

16. Legation's telegram No. 39 of January 23. The Department would hardly be inclined to reconsider its attitude with respect to the Federal contract save for the fact that a situation has arisen within the Federal Telegraph Company of Delaware which gives rise to the danger that the Radio Corporation may be unable to continue with the project on the original plan. There is some reason to fear, therefore, that in fact the Japanese proposal may prove to be the only available alternative.

Pending the arrival of Moss and Davis the Department will be glad to have further comment from you in view of these possibilities.

HUGHES

893.74/522 : Telegram

The Minister in China (Schurman) to the Secretary of State

[Paraphrase]

PEKING, February 5, 1925—9 p. m.

[Received 10:54 p. m.]

61. Your telegram of January 28, No. 16.

(1) Your information prompts me to propose for the difficulty a second best solution.

(2) The financial consortium suffers unpopularity in this country and so far has to its credit no positive accomplishment. For a long time I have believed that the one hope of the Consortium's success rests upon the inclusion of a native group of bankers. The

term "radio consortium" would in itself arouse the Chinese to oppose bitterly any combination for developing radio similar to a consortium. Therefore the initial step to be taken in adjusting the wireless dispute is necessarily to constitute China, instead of a helpless subject of the discussion, a party coequal with the others.

(3) I invited attention, in the Legation's telegram of January 23, No. 39, to certain of the obstacles with which the execution of the Japanese proposal would be confronted, and also to the fact that it would be necessary to secure the approval of the Chinese Government to any proposed alteration of the method of carrying out the Federal agreement. Obviously, the exact nature of the plan which the Japanese Government suggests would be determined by the details, which so far still remain vague, of its execution. However, there has been formally stated one definite principle, viz., that the Chinese Government shall have exclusive control of the existing and proposed radio facilities. Inasmuch as this is accepted as a guiding principle by the Japanese Government, I make the suggestion that, whether or not the principle in question is practicable, a conference be convoked in this city in which are represented all the companies with which the Chinese Government has radio (and perhaps those having cable) agreements or which reliably evidence that they will be willing investors of capital in enterprises of that kind, the representatives of these companies to consult with Chinese Government representatives and among themselves how best to coordinate the contracts which they respectively possess in order to obtain the most desirable results for everyone having concern in the foreign and domestic wireless field including telephony and broadcasting. Seemingly it would be desirable that an official observer represent the Legation of the nationality of each participating company.

(4) The submission by the Government of China of a comprehensive proposal could advantageously initiate the discussion at this conference. The Chinese Government, I think, would itself be willing to issue to the companies which are concerned invitations to be represented at the conference, should the plan for a conference be brought to the Chinese Government's attention as a solution of the existing complications between the nations which are obstructing wireless communications development. Regarding this consideration, it is my respectful proposal that a suggestion be made to the Chinese Minister in Washington that if invitations were issued by the Chinese Government to such a round-table conference, the Department would give no opposition to American interests participating but, on the other hand, would have hope of an outcome of success. It is my opinion that approach by this method is superior to offering such proposals in Peking.

(5) I see the several following advantages in the convoking of such a conference: When centered on a common object the combined business acumen of the several representatives should be able to work an adjustment of their various interests so that that object would be achieved. The American representatives would, with their present attitude toward the Federal agreement, be so placed with regard to making concessions as to set a commendable example. The respective Governments, through their official observers, would be in a position to make provision that there would be no violation of international policies such as open door, elimination of spheres of interest, etc.

(6) It is my belief that there would be embodied in an understanding arrived at in this way the most satisfactory feature of the proposal made by the Japanese, that the prestige of each participant would be conserved, the dignity of China would be enhanced, and that the most for the actual development of radio would be promised thereby.

SCHURMAN

893.74/526 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, February 21, 1925—4 p. m.

[Received February 21—10:07 a. m.]

72. Davis and Moss arrived evening February 19th and are conducting negotiations with Director General of Telegraph on basis of terms of the original contract. It would seem according to Moss that the Chinese Government, having learned on reliable authority of the Japanese proposals and confronted with the possibility of having to accept a radio consortium of four powers, may be willing to accept the Federal contract with a few minor changes. In any case Moss quotes Director General as stating in his first interview that there is no question of cancelation of the contract by Chinese Government.

It appears that Davis and Moss are ignorant of the contents of your telegram No. 16, January 28, 3 p. m., and, in case they are not informed thereof by their own principals, have I authority to communicate to them the substance thereof as well as my No. 61, February 5, 9 p. m.? In view of the contingency of the withdrawal of the American parties to the Federal contract, although the Chinese Government may possibly be willing to execute it, I request the Department's explicit instructions as to the support I should give Davis and Moss lest I be drawn into extremely embarrassing situation.

SCHURMAN

893.74/526 : Telegram

The Secretary of State to the Minister in China (Schurman)

[Paraphrase]

WASHINGTON, *February 24, 1925—5 p. m.*

24. Davis is fully aware of the internal dissensions among the American interests concerned with the Federal wireless contract, and, in fact, information which he provided to the Department formed the basis for the Department's telegram of January 28, No. 16. Accordingly you may employ complete frankness in discussing with him how far those interests will be able and willing to go ahead.

I am of the opinion that the radio conference proposal which you suggest in your telegram of February 5, No. 61, might have a tendency to cause the Federal Company's valid legal position under the agreements now in existence to be compromised without adequately assuring, from a conference held under present conditions in China, any effective results.

Appropriate support may be continued by you to try to secure the fulfillment by the Chinese Government of the obligations which the Federal contract imposes upon it.

In reply to the Japanese memorandum of December 24, 1924, I propose to say:

[Here follows, in substance, the second paragraph of the note to the Japanese Embassy, February 28, 1925, printed *infra*.]

HUGHES

893.74/502

The Department of State to the Japanese Embassy

The Secretary of State has received from the Japanese Embassy a memorandum dated December 24, 1924, making certain suggestions with regard to wireless telegraphy in China.

While sympathetic with the purpose of effecting a reconciliation of the conflicting radio interests in China, the Government of the United States is not disposed to consider the relinquishment of the independent position of its nationals in this matter unless and until it may have reasonable assurance of the practicability of any adjustment proposed. In view of a doubt whether the arrangement which has been suggested by the Japanese Government would be acceptable to the Chinese Government, the Government of the United States would desire to be reassured on that point before giving further consideration to the proposal.

A reply from the Japanese Government in this respect is awaited.

WASHINGTON, *February 28, 1925.*

893.74/558 : Telegram

*Mr. Manton Davis to the Radio Corporation of America*¹¹

[Extract]

PEKING, March 12, 1925.

Number 3. . . .

Subject: Communications. Official negotiations delayed on account of serious illness Yeh Kung-ch'o, Minister of Communications, China. Unofficially we are making satisfactory progress. Clarification agreement probably will not be very difficult after Chinese decide question to proceed or not with our projects. Opposition Japanese powerful. They have very great influence with Tuan Chi-jui, Acting President, China, and are making strong effort to have our contract cancelled. All Chinese technical services, including Yeh Kung-ch'o, Minister of Communications, China, and Tsiang Tsing-yi, Director General of Telegraphs, China, are working for us hard. We have agreed our stations will accept traffic for Japan and transmit all of the same to Mitsui-Peking Radio Station, it to accept traffic for America and transmit all of the same to nearest Federal stations, division all charges in each case in proportion to services, free competition remainder of world. Tsiang Tsing-yi, Director General of Telegraphs, China, strongly of opinion controversies can be settled this basis . . .

MANTON DAVIS

893.74/529 : Telegram

The Minister in China (Schurman) to the Secretary of State

PEKING, March 23, 1925—6 p.m.

[Received March 23—12:30 p. m.]

123. Your 34, March 5, 2 p. m.¹² Federal Company's representatives now inform me that after one month's negotiations with the Ministry of Communications they have made no progress toward execution of contract. They believe the Ministry of Communications favorable and ascribe deadlock to Japanese influence in the Ministry of Foreign Affairs and with the Chief Executive. At their request I called on the Minister for Foreign Affairs on March 23, 11 a. m., and presented strong demand for execution of the Federal contract

¹¹ Copy left at the Department of State Mar. 24, 1925, by William D. Brown, general attorney for the Radio Corporation of America. In a letter of Mar. 31, 1925, to Assistant Secretary of State Harrison (file No. 893.74/556), Mr. Brown stated that the traffic arrangement suggested by Mr. Davis had the approval of the Radio Corporation of America, the Federal Telegraph Company of Delaware, and of the president of the Federal Telegraph Company of California.

¹² Not printed.

so far as possible before my departure. I quoted treaties and open-door principle as canceling Japanese monopolistic clause which appeared to be only obstacle. The Minister for Foreign Affairs replied that Japanese opposition was cause of obstruction and that if this were obviated American contract would be executed. He promised to consult the Minister of Communications. While Japanese influence is extremely strong with the present Government there are signs latter is growing weaker and I feel that receipt in the Ministry of Foreign Affairs of strong representation from the American Government telegraphed by the Chinese Minister in Washington might have great effect at this juncture. I respectfully suggest this course.

Repeated to Tokyo.

SCHURMAN

893.74/548b

The Department of State to the Japanese Embassy

MEMORANDUM

The Government of the United States has given further consideration to the suggestions contained in the memorandum of the Japanese Embassy dated December 24, 1924, concerning overseas radio facilities in China. With a view to the reconciliation of the divergent views entertained by the Governments of the United States and of Japan on this subject, and in the hope of bringing about an amicable adjustment of virtually the only remaining question of controversy between the two countries, the Government of the United States ventures to propose that the following plan of operation of the Federal and Mitsui radio stations in China should be adopted as a means of affording adequate overseas radio facilities for that country in a manner providing a fair division of the radio business between China and the United States and China and Japan:

The Federal Telegraph Company agrees to accept at any of its stations in China traffic for Japan and to transmit all such traffic to the Mitsui station at Peking for retransmission to Japan; the Mitsui station agrees to accept traffic for the United States and transmit all such traffic to the nearest Federal station in China for retransmission to the United States, the division of all charges in each case to be in proportion to the services performed by the several companies. It is understood that for the remainder of the world free competition will exist.

It is believed by the Government of the United States that an arrangement for the interchange of traffic as above described would prove profitable to the companies concerned and economical for the

Chinese Government. It is hoped that the suggestion which is offered as an alternative to the proposal made in the Japanese Embassy's memorandum of December 24, 1924, and in a spirit of accommodation to the expressed desire of the Japanese Government that the uncertainty that has existed for several years should be definitely removed, will meet with the approval of the Japanese Government and that the Chinese Government, which would profit equally by the arrangement, will interpose no objection. It is believed by the Government of the United States that the plan as herein suggested is more feasible than that suggested in the Japanese Embassy's memorandum of December 24, 1924, in that it simplifies operating arrangements, brings into accord the views of the several national radio interests, whose contentions until now have seemed irreconcilable, and conforms with the principle of equality of opportunity in commercial enterprises in China.

WASHINGTON, April 8, 1925.

893.74/548a

The Department of State to the Chinese Legation

MEMORANDUM

The Government of the United States, having been informed that the Chinese Government is finding itself increasingly embarrassed by the divergent views of certain American and Japanese radio interests in China, and being disposed to facilitate a fair and reasonable adjustment of the situation, has proposed to the Japanese Government a practical plan of cooperation by means of which an interchange of certain business between the Mitsui station at Peking and the proposed Federal stations might be effected. A copy of a memorandum on the subject addressed to the Japanese Embassy at Washington today is enclosed herewith¹³ for your information and in the hope that the proposal will have the approval of the Chinese Government in so far as it may be concerned with the matter. It is believed by the Government of the United States that the proposed plan would promote the early establishment of direct and adequate radio communication between the United States and China and that the present facilities between China and Japan would be improved and substantially augmented by the adoption of the suggestion, and at a great saving to the Chinese Government. It is hoped that the Chinese Minister will at once recommend to his Government the acceptance of the arrangement and that the Japanese Government likewise will give its approval in order that the long-standing differences which

¹³ *Supra.*

have retarded radio development in China may now be quickly reconciled. It would seem that the plan proposed would resolve a situation which has been both discouraging and annoying to the parties in interest and that if an operating plan such as has been suggested offers a basis of an amicable settlement it behooves the three governments concerned to remove further cause of friction by accepting the proposal.

WASHINGTON, April 8, 1925.

898.74/552 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, April 23, 1925—1 p. m.

[Received April 23—10:10 a. m.]

168. Your 75, April 11, noon.¹⁴

1. At urgent request Federal representatives I pressed Minister for Foreign Affairs yesterday at Foreign Office day [*sic*] to authorize Minister of Communications to conclude negotiations immediately with Federal Company for execution of contract. I pointed out that American Government's proposal to Japanese Government fulfilled all reasonable demands of latter and left Chinese Government free to act. The Minister for Foreign Affairs replied that Sze had had negotiations with the Department of State and that it was now absolutely necessary to await Japanese Government's reply to memorandum before executing contract. The Minister for Foreign Affairs asked if Japanese Government had made reply.

2. While Federal representatives state negotiations with Ministry of Communications regarding execution of contract proceeding favorably, I fear traffic arrangement proposal being utilized by Japanese further to delay, through diplomatic means, execution of contract.

3. From recent conversations with Davis, I gather Radio Corporation by no means averse to, if not entirely in favor of, an arrangement with Mitsui whereby latter's Peking station will be used by both parties thus avoiding building Federal Peking station. Such an eventuality I consider would be very unfortunate from political considerations of need for direct Sino-American communications between American and Chinese Governments and between them and their respective Legations.

Repeated to Tokio.

MAYER

¹⁴ Not printed.

893.74/552 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, April 28, 1925—7 p. m.

87. Paragraph 1 your 168, April 23, 1 P. M. You may inform Foreign Office that there are no negotiations pending with the Chinese Minister here. In handing to him the memoranda¹⁶ referred to in the Department's 75 April 11, noon,¹⁶ he was orally requested to give his support to the proposal but it is understood that he has taken no action in this direction.

KELLOGG

893.74/569

The British Ambassador (Howard) to the Secretary of State

No. 566

WASHINGTON, May 28, 1925.

SIR: I have the honour to refer to the Department of State's *note verbale* of February 26th last¹⁶ on the subject of wireless telegraphy in China, and to inform you that the memorandum of December 24th, 1924, from the Japanese Embassy here to the United States Government, a copy of which was communicated to me by my Japanese colleague, seems, in the opinion of His Majesty's Government, to indicate a genuine desire on the part of the Imperial Government to put an end to the lamentable and dangerous confusion into which the question of wireless telegraphy in China has fallen. I have therefore been instructed to state that, subject to the safeguarding of the prior rights of the Marconi Company, His Majesty's Government would welcome in principle the formation of such a consortium as that suggested in the fifth paragraph of the Japanese memorandum.

In order that there may be no misunderstanding in regard to the reservation outlined above, my Government have directed me to invite the attention of the United States Government once again to the nature and extent of the prior rights of the Marconi Company. You will be aware that negotiations between the Chinese Government and the Marconi Company for the erection of wireless stations in China began in September 1909 and continued until April 8th, 1914, when the Chinese Government signed a preliminary agreement with the Company.¹⁷ The Marconi Company also hold additional rights through the Chinese National Wireless Telegraph Company, which was created by special charter on May 24th, 1919, and is jointly owned

¹⁶ Memoranda to the Japanese Embassy and to the Chinese Legation, dated April 8, pp. 902 and 904.

¹⁶ Not printed.

¹⁷ See *Foreign Relations*, 1921, vol. I, p. 408, footnote 5.

by the Chinese Government and the Marconi Company. The contract of this company provides that the Chinese Government shall purchase exclusively from the Chinese National Wireless Telegraph Company all its present and future requirements in wireless telegraph and telephone apparatus, material and supplies, and that, if the Government suffer no loss by giving such work to the Chinese Company, then this Company shall be exclusively entrusted with the repair and maintenance of all wireless telegraph and telephone apparatus and equipment in China. These conditions have, in the opinion of His Majesty's Government, been constantly violated by the Chinese Government in many ways as for instance by the contract signed by the Chinese Government in 1921 with the American Federal Company.

In furnishing you with the above exposition of the situation as it is seen by my Government, I would add that a similar communication is being addressed to the Japanese Government by His Majesty's Ambassador at Tokio.

I have [etc.]

ESME HOWARD

893.74/570

The Japanese Embassy to the Department of State

MEMORANDUM

The Japanese Government have given a careful consideration to the two memoranda of the Department of State, dated respectively February 28, and April 8, 1925, relating to the question of wireless telegraphy in China. They are gratified to note in these communications the full sympathy and readiness with which the United States responds to their invitation to seek reconciliation of the divergent radio interests in China, and to bring about an amicable settlement of this question of controversy between the two countries.

2. It is doubtless known to the American Government that the Mitsui Company, according to the contracts of February and March, 1918, has completed the radio station at Peking. Regarding these contracts, the only point in dispute between Japan and the United States is the right of monopoly created in favour of the Mitsui Company to establish and operate all overseas radio service in China, to the exclusion of other nationals interested in such enterprise. The establishment and operation by the Mitsui Company of the Peking station have never been questioned by the American Government or the Federal Company.

3. The question, however, of the proposed stations of the Federal Company at Shanghai and elsewhere, stands on an entirely different footing. It is to the establishment of these stations by the Federal

Company that the Japanese Government felt constrained to take exception as an infringement of the contractual right already acquired by the Mitsui Company from the Chinese Government. As a question of law, the Japanese Government still hold to the belief expressed in their previous communication that such contractual right of the Mitsui Company as opposed to the claim of the Federal Company, is not inconsistent, either with treaty provisions between the United States and China, or with the principle of equal opportunity, and finds ample support in a series of international precedents.

4. It seems that this distinction of legal status, between the Mitsui station at Peking and the proposed Federal stations, has not been taken into account in the plan of adjustment suggested in the Memorandum of April 8, 1925, as a substitute for that which is embodied in the Japanese Embassy's Memorandum of December 24, 1924. Maintaining the claim of the Federal Company to establish radio stations in China in disregard of the exclusive right previously granted by the Chinese Government to the Mitsui Company, the American counter-project proceeds to divide radio business between the two companies. The plan formulated by the American Government is simply an operating arrangement and it assumes the complete abandonment by the Mitsui Company of its legal position relative to the establishment of radio stations in China, without any corresponding concession on the part of the Federal Company.

5. It would appear further that the American counter-project is intended to secure for the Federal Company the exclusive control of all radio stations to be constructed by the company as well as a monopoly of the radio service between the United States and China. Upon careful review of the whole question, the Japanese Government have now reached the conclusion that such an arrangement would not make for the maintenance of China's administrative integrity or for the extension of fair and impartial treatment of the other Powers equally interested in the question. On the contrary, it seems likely to revive the international rivalry and misunderstanding that in the past have proved so harmful to the stabilization of China.

6. Again, the Japanese Government are not convinced of the immediate need for China, in the present state of her economic and financial conditions, for two or more high power radio stations for external communications. The expenditure to be charged to China under the Federal contract can not fail to intensify the strain on her already overburdened treasury. Experience in many countries has shown that, as purely commercial undertaking, radio communication is not financially profitable, at least for a number of years after its initiation.

7. In the memorandum of the State Department of February 28, 1925, the American Government reserved discussion on the arrange-

ment proposed by the Japanese Government, unless and until its acceptability to China shall have been reasonably assured. It will be recalled that the Japanese project is a measure of mutual promise [*compromise*] calculated to remove from the field of radio communication all features of foreign control and of monopoly, and also to relieve China of what seems to be an unnecessary addition to her financial burden. Considering that these terms are more favourable to China and in fuller accord with her true interests than are those of the American counter-project, the Japanese Government have indulged the confident hope that their proposal will eventually be found acceptable to the Chinese Government.

8. The Japanese Government, however, do not feel themselves at liberty to make any overtures to China for the settlement of the question, without the full understanding and cooperation of the United States. They fear that if they took such independent action at Peking, it would place the Chinese Government in an embarrassing position, and would, moreover, be a fruitful source of popular misgiving. It seems to the Japanese Government only natural and more likely to attain the desired result, that the parties having conflicting claims to the radio enterprise in China should first agree between themselves, at least upon the general principles governing the adjustment of these claims, subject to the approval of the Chinese Government.

9. Doubt is expressed by the American Government as to the feasibility of the Japanese proposals. The Japanese Government will welcome any suggestion for the modification of such terms of their proposals as may appear unworkable to the American Government. But, they place great importance upon the elimination from any radio arrangements in China of such features of foreign control or of monopoly as the counter-proposals of the American Government would appear to involve. They further re-emphasize the point that they deem it highly desirable, for China and for all Powers interested in that country, to adopt such a solution as will lighten her financial liability.

10. The question of radio facilities in China formed a subject of discussion at the Washington Conference, and the British and French Governments, which took active part in that discussion, are no doubt keenly interested in the outcome of the present exchange of views between Tokio and Washington. Accordingly, it has occurred to the Japanese Government that if it is more essentially the matter of feasibility than any question of principle, which seems unconvincing to the American Government in the consideration of the Japanese proposals submitted on December 24, 1924, it might be useful to call a meeting of representatives of the American, British, French and Japanese radio interests, with instructions to exam-

ine in common accord the feasibility of the Japanese proposals, and to work out detailed terms of adjustment for recommendation to their respective Governments.

In making this suggestion, the Japanese Government have no other desire than to reach a practical solution of the difficulty that will best serve the lasting interests of China and will at the same time secure friendly cooperation among the Powers interested in radio enterprise in that country.

WASHINGTON, June 1, 1925.

893.74/581 : Telegram

The Ambassador in Japan (Bancroft) to the Secretary of State

TOKYO, July 1, 1925—noon.

[Received July 1—11:53 a. m.]

117. Yesterday the Minister for Foreign Affairs, Dr. Dan of Mitsui, and MacMurray,¹⁹ discussed the Federal wireless situation. I was present with Neville.²⁰ MacMurray explained that the Japanese memoranda of December 24th and June 1st last assumed that the Mitsui monopoly is valid and exclusive, that the Federal contract is a monopoly of traffic between China and the United States and finally proposed an adjustment on the basis of a monopoly of China's radio communications being shared among the British, French, Japanese and American companies.

The American Government does not admit or support the Federal contract as a monopoly. Its position was set forth in the memorandum of July 19, 1923, to the British Government.²¹ The American Government does not wish to disturb vested interests but cannot acquiesce in any arrangement which would have the effect of allowing French, British and Japanese interests to maintain radio communication with China while preventing the United States from so doing.

Shidehara replied that the Japanese objection to the American attitude was three fold: it created a monopoly, it affected vested rights, and caused unnecessary expense to China. The proposed American radio would be expensive and there is no prospect that it would make enough money to repay the 13,000,000 Mexican dollars that it would cost China. The Japanese wish to put all facilities of communication in the hands of China, putting wireless on the same basis as the post offices and the Shantung Railway, for example.

MacMurray stated that the United States desired earnestly to come to some settlement that would protect vested interests and would in-

¹⁹ John V. A. MacMurray, newly appointed Minister to China, en route to his post.

²⁰ Edwin L. Neville, first secretary of Embassy in Japan.

²¹ *Foreign Relations*, 1923, vol. I, p. 810.

jure no one but which must place the United States on terms of equality with every other nation having radio interests in China. He was not suggesting a program but placing our case before the Japanese and assuring them of our wish to cooperate.

Shidehara said that he realized the necessity of cooperation and desired it. Japan however is committed to a certain extent to the British and French through an agreement made in London in February 1924, a copy of which he understood had been given to the Radio Corporation; the situation is further complicated on account of the contract of December 22, 1913 (MacMurray's *Treaties*, page 67) with the Great Northern and Eastern Extension cable lines.

Copy to Peking.

BANCROFT

893.74/585

The British Chargé (Chilton) to the Secretary of State

No. 704

MANCHESTER, MASS., July 22, 1925.

[Received July 23.]

SIR: In his note No. 566 of May 28th last, Sir Esme Howard drew your attention to the prior rights of the Marconi Company as regards the working of wireless telegraphy in China and informed you that, provided these rights were safeguarded, His Majesty's Government would welcome in principle the suggestion of the Japanese Government that a consortium should be formed to liquidate the difficulties arising out of the conflicting interests of the various concessionaires.

His Majesty's Government are in full sympathy with the view expressed by my Japanese colleague in the memorandum which he addressed to the United States Government on December 24th last that this controversy should be adjusted along the lines of international co-operation. In order, therefore, that there may be no misconception as to the construction to be placed on the above mentioned proviso regarding the prior rights of the Marconi Company, I am instructed to explain that His Majesty's Government will consider the interests of this Company to be sufficiently safeguarded if they are enabled to participate on equal terms in the consortium contemplated by the Japanese Government.

In determining their attitude in this matter, His Majesty's Government have been impressed by the fact that the difficulties now handicapping the development of wireless communications with China afford a striking illustration of the soundness of the general principles so ably championed by the United States Government in other spheres of foreign relations with that country. The essence of these principles consists in the eradication of international com-

petition in China and the abstention of the foreign powers concerned from any attempt to seek special privileges for themselves and their nationals. His Majesty's Government do not doubt that these considerations will also animate the policy of the United States Government in the present instance. At the same time, however, they view with a certain apprehension the possibility of practical application being given to the suggestion put forward by the United States representatives at the time of the Washington Conference that the conduct of wireless between the United States and China ought to be solely in the hands of a Sino-American enterprise. Whilst His Majesty's Government for their part were prepared to accept the recommendations of the wireless experts when taken as a whole, they cannot but feel, in the light of the present difficulties, that the suggestion of the American representatives on this particular point would in practice militate against the above mentioned principle of equality of opportunity and encourage the powers to claim from the Chinese Government a monopoly of the wireless traffic between themselves and China. Such action on the part of the powers would materially increase the difficulties of the situation and result in the infliction of a considerable injustice on China.

His Majesty's Government are confident that this aspect of the matter will not have escaped the notice of the United States Government, and in drawing your attention to the standpoint of His Majesty's Government as regards the interests of the Marconi Company, I have the honour to request that I may be informed at an early date of the attitude of the United States Government towards the question of the future development of wireless telegraphy in China and to express the hope that their views on the subject may coincide with those of His Majesty's Government, who are prepared to give their whole-hearted support to the proposals submitted in the above mentioned Japanese memorandum of December 24th last, for the solution of the complicated and far-reaching political issues which this problem involves.

I have [etc.]

H. G. CHILTON

893.74/586 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 29, 1925—7 p. m.

[Received July 29—5:45 p. m.]

299. Federal wireless.

1. At a recent interview with the Minister for Foreign Affairs I asked for special appointment to discuss wireless question and he expressed a desire to know the purpose of my conversation with

Japanese Minister for Foreign Affairs of which he had obviously been informed.

2. Afternoon July 27th I recounted to him frankly the substance of that conversation which was reported in Tokyo's 117 July 1, noon and in my comment laid emphasis upon the following points: (a) Japanese contract has been extended whereas ours has not although entered into in good faith by both American and Chinese parties with full knowledge of Japanese pretensions of monopoly; (b) American interests thus placed at strategic disadvantage in upholding principles which both we and Chinese Government had in view; (c) American Government and radio interests not antagonistic to legitimate rights of Japanese or other interests but anxious only to obtain direct and unstraddled [*untrammelled?*] means of communication and consequent better understanding between two peoples; (d) though Japanese perhaps willing to come to eventual accommodation of conflicting interests, it would be expecting too much of human nature to suppose that they will seek or go very far to meet us in an accommodation giving us what we desire so long as they are in possession of a station and we have nothing but a bare paper standing; (e) we cannot meet the Japanese on equal terms in this matter until the Chinese have given effect to our contract rights as they have to those of the Japanese; (f) once the Chinese have enabled the American contract to proceed, our radio interests have assured me of their readiness to meet the Japanese in negotiations designed to reconcile the conserved [*sic*] interests of Radio Corporation and Mitsui Company by traffic arrangements subject to the approval of the Chinese Government which would assure the latter company of profits at least equal to those desirable from their Peking station under existing conditions.

3. Minister for Foreign Affairs first proposed we should adjust our differences with the Japanese before asking further attention to the matter on the part of the Chinese. I told him I saw no prospect of a satisfactory adjustment until the Chinese gave our interests the *locus standi* to which they were entitled by the terms of their contracts.

4. He then suggested that the Chinese might propose to the two conflicting national interests some basis of accommodation. I pointed out that no such proposal could well be fair to us so long as we occupied a merely theoretical position while the Japanese had a station actually functioning.

[Paraphrase]

5. Information from a source considered reliable has come to representatives of the Federal Telegraph Company that this matter was taken up today by the Minister for Foreign Affairs with Tuan Chi-

jui, emphasizing that we are not at present negotiating with the Japanese and under existing conditions do not foresee possibility of reaching a satisfactory understanding with them. It is reported that Tuan has said that the Chinese Government would take up the question with the Japanese if the Americans and Japanese could not come to an agreement.

6. If this proves to be true we will be confronted by a clear disregard of our contract rights and there will be little if any likelihood of obtaining a reconsideration . . . It may be necessary in that case to decide whether to induce the Chinese to submit proposals to the Radio Corporation and Mitsui Company for the accommodation of their conflicting interests or to authorize the Radio Corporation to negotiate directly with the Mitsui Company for arrangements on a business basis. Arrangements of this nature would not recognize any monopoly and would include the setting up of an independent American-Chinese circuit.

7. Possibly the Chinese Minister at Washington might be persuaded to telegraph his Government and to point out the seriousness of subordinating valid American rights to the veto of Japan.

8. Repeated as No. 72 to Tokyo.

MACMURRAY

893.74/586 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, August 6, 1925—4 p. m.

190. Your 299, July 29, 7 p. m. The Chief of the Far Eastern Division had a conversation with the Chinese Minister on August 5, during the course of which he brought to his attention the substance of your interview with the Chinese Minister for Foreign Affairs on July 27, and pointed out to him that, for the Chinese Government to ask the American company to adjust its differences with the Japanese before asking further consideration of the matter of its contract on the part of the Chinese was to lead this Government to see in this repudiation by the Chinese Government of the principles of the policy of the open door. The Chinese Minister promised to see what he could do by way of taking up the matter with his Government.

KELLOGG

898.74/594 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 14, 1925—10 p. m.

[Received August 14—7:35 p. m.]

330. Your telegram 194, August 7, 3 p. m., and my No. 321, August 10, 3 p. m.²²

1. On the 13th instant I called on the Minister for Foreign Affairs to ask for an appointment to discuss with the Chief Executive the Federal wireless question. He urged that the matter be left to the instructions of ministerial committee to which it has been referred for the purpose of finding some way to remove the obstacles placed by Japanese interests in the way of the Chinese Government's giving effect to the American contract. Being convinced that this is a merely dilatory procedure since after several weeks the committee has not taken up the proposal, I insisted that I saw no purpose which the committee would serve unless it were to remove Japanese opposition by devising terms under which third parties might permit the Chinese Government to carry out its obligations to our nationals. I then read him the substance of the statement to the Chinese Minister quoted in your telegram August 7, 3 p. m. [August 6, 4 p. m.?]

2. I recalled the notes exchanged between the Secretary of State and the Chinese Minister in June-July, 1921,²³ by which we pledged ourselves and considered the Chinese Government likewise pledged to cooperation in this matter as a practical application and test of the open-door principle; and I pointed out that for four years we had loyally stood by this understanding whereas the Chinese Government was still wavering in the face of opposition. I said my Government attached the utmost importance to this matter because of the principle involved and because it constituted a test of the disposition of the Chinese Government not only towards its obligation to our nationals but also towards the policy of the open door which it had agreed with us to uphold: the time had come when we felt entitled to know where the Chinese Government stands; would it or would it not live up to its obligations and cooperate loyally with us in maintaining the open door. This was a moment when we must be taking stock of our own position and of the actualities of the situation in China, and we should be in a position to know definitely whether or not the Chinese Government is faithful to its cooperation with us in giving practical effect to the open door; a failure to proceed with respect to the contract would now create a doubt.

²² Neither printed.

²³ Note from the Chinese Minister of June 9, 1921, and reply of July 1, 1921, *Foreign Relations*, 1921, vol. 1, pp. 438 and 439.

3. The Minister for Foreign Affairs protested that there was no matter of principle involved but only a practical question of finding a way around the obstacle interposed by the Japanese; and he at first said he saw no necessity for my seeing the Chief Executive.

4. I told him that we could not accept that view and that it was in order to make clear to the Chief Executive our conviction as to the political importance of the matter that I asked for an interview. The Minister with manifest displeasure consented to arrange for it to take place in about a week.

5. I am hopeful that this interview may have made some impression upon the Minister for Foreign Affairs who has hitherto been wholly indifferent to the matter.

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MACMURRAY

893.74/596 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Extract]

PEKING, August 22, 1925—4 p. m.

[Received 5:50 p. m.]

345. My telegram No. 330, August 14, 10 p. m.

1. From a source hitherto found reliable and believed to be so in this instance, representatives of the Federal wireless interests have learned that in consequence of the unremitting pressure from the Japanese Legation, Provisional Chief Executive has directed that the interministerial committee must report in favor of the cancellation of the Federal contract.

2. Minister of Communications who originally concluded and is favorable to the American contracts is helpless in the matter but is reported to intend saving face by recommending that the Mitsui contract be simultaneously canceled. Such cancellation of the Japanese contract would not of course eliminate the station actually built thereunder or relieve Chinese Government from its financial obligation which might well prove actually heavier on a *quantum meruit* basis than under the terms of the contract.

3. The result would be that the American interests would be left with a bare claim against the Chinese Government; whereas Japanese interests would have not only a claim but a station in being and capable of actual though inefficient commercial operation and would then be in a position to demand that arrangements be made to enable their station to be so used as to make it reliable security for the debt incurred in its construction.

4. This fits in with a plan which the Japanese Minister has for some time been persistently urging upon the Chief Executive in behalf of Mitsui Company, whereby the Chinese Government would authorize that company to operate station in its behalf under a nominally provisional arrangement pending settlement of the question of Mitsui's claim to a monopoly; in the meanwhile station should "start operations for transmission of all commercial messages for Japan, Europe, America and other overseas points" and the Chinese Government would permit station to connect with the Chinese telegraph system and would direct that all messages routed by wireless to foreign countries should be transmitted by the Japanese station, this "provisional arrangement" to be subject to modification only upon 6 months' notice and upon agreement by both (repeat both) parties as to the cancellation of any of the terms of the agreement. This seems clearly to mean a monopoly of Chinese overseas wireless in favor of Japanese interests for so long as they care to maintain that predominance.

5. The situation would of course lead to the result that in the event of the formation of "wireless consortium" Japan would enter the field as the possessor of all ostensible rights, whereas we would be in a position to show no more than a grievance against the bad faith of the present administration of the Chinese Government.

MACMURRAY

893.74/597 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 25, 1925—11 a. m.

[Received August 25—10:53 a. m.]

349. My telegram number 345, August 22, 4 p. m.

1. Chief Executive yesterday gave me the assurance that Federal contract was recognized as valid and that effect would be given to it. . . .

2. I am frankly doubtful however whether any positive result was achieved as I am unable to get him to give any definite assurance as to the time and manner of giving effect to the contract. He confined himself to saying that he would instruct Ministries of Communications and Foreign Affairs to seek a solution satisfactory to all interested nationalities and remarked that this was a matter in which the Japanese had an interest that entitled them to be heard.

3. I concluded the conversation by saying that while I did not expect of him an immediate answer as to the intentions of his admin-

istration I intended shortly to address to the Ministry for Foreign Affairs a request for an early and definite statement on the subject and had consulted him in order that the reply might represent his considerations.

4. In order not to lose what impetus has been given to the matter my proposed note to the Minister of Foreign Affairs should be in his hands in time for consideration at the Cabinet meeting Saturday morning. Considerable weight would be added to it if I could quote you directly as instructing me to make such a request for information as to the intentions of the present regime here; but if it is not possible to receive your authorization by Friday morning I shall send a note in the sense indicated below on my own responsibility and omitting the reference to instructions from you.

5. The Department [*proposed?*] note, after recalling the conversations I have had with the Minister for Foreign Affairs and with the Chief Executive and reciting that the desire and readiness of the American interests concerned with the contract have been thus far defeated by the action of the Chinese Government, would go on as follows.

6. So recently [as] the 24th instant His Excellency the Chief Executive assured me that contract in question was recognized as valid and would be put into effect. While welcoming this renewed assurance in view of the importance that attaches to this matter not only as one involving a contractual obligation to American nationals but also as affording a test of the principle of the equality of opportunity in China, I must repeat that it is now necessary to know definitely whether early effect will be given to the contract. As I have explained both to you and to His Excellency the Chief Executive, time is important to the American companies concerned; and a further reason for making clear the position of the Chinese Government in this matter had now arisen in consequence of the fact that the American Government is at the present time under the necessity of taking stock of international situation in China and formulating policies for its own guidance in dealing with the records [*sic*] to be discussed at the Special Conference.²⁴

7. With a view to assuring itself whether or not it can count upon the continued support and cooperation of the Chinese Government in maintaining the principle of equality of opportunity which is the basis of Washington Conference treaties and of the forthcoming Special Conference to be held thereunder, my Government has instructed me to ask for an early and definite statement whether the Chinese Government will without hesitation give effect to the Federal

²⁴ Special Conference on the Chinese Customs Tariff; see pp. 833 ff.

contract, and, if so, on what date may it expect such action to be taken.

8. I earnestly request your express authorization to present the matter in this way.

9. Copy by mail to Tokyo for information.

10. I suggest informing Radio Corporation of the substance of the above.

MACMURRAY

893.74/597 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, August 26, 1925—4 p. m.

218. Your 349, August 25, 11 a. m. You are authorized in the name of the Secretary of State to present question of Federal Telegraph contract to Minister for Foreign Affairs in manner set forth in Paragraph[s] 6 and 7 of your telegram.

GREW

893.74/598 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 26, 1925—6 p. m.

[Received August 26—11:15 a. m.]

352. My telegram number 349, August 25, 11 a. m.

1. I have just received on credible authority the information that at a secret meeting with interested Cabinet Ministers, the Chief Executive yesterday adopted definitely the decision to cancel the Federal and Mitsui contracts as foreshadowed in my telegram 345, August 22, 4 p. m.

2. With a view to forestalling action upon this decision which would confront us with an unalterable *fait accompli* it seems imperative that I should immediately address to the Minister for Foreign Affairs the note referred to in paragraphs 4 to 8 of my telegram of August 25, 11 a. m., without awaiting instructions from the Department. I am therefore sending this afternoon a note of the tenor suggested in that telegram.

3. Copy by mail to Tokio for information.

MACMURRAY

893.74/601 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 29, 1925—4 p. m.

[Received 7 p. m.]

360. My telegram number 352, August 26, 6 p. m.

1. The Foreign Office yesterday evening sent me an *aide-mémoire* stating that:

"The question concerning the American and Japanese wireless stations has long been pending and has not been settled. As the three parties are without benefit, it becomes urgently necessary to plan a fundamental means of decision."

and transmitting a proposal of the Ministry of Communications looking to replacement of both contracts by an arrangement whereby the American and Japanese parties would jointly make the Chinese Government a loan for the development by it of a wireless system. The text of the proposal is given in a telegram which I am sending for Davis.²⁵

2. Identic *aide-mémoire* was to be delivered to Japanese Legation.

3. Davis informs me that earlier in the day he had been sounded as to this proposal by a representative of the Minister of Communications and had absolutely refused to entertain it since he considers it not only beyond the scope of his authority to negotiate, but wholly unacceptable from a business standpoint. He furthermore feels that this proposal which there is reason to believe was originated by Mitsui is designed merely to detach the American interests from their position of reliance upon vested contract rights and bring them into negotiations in which they would be at a disadvantage. In this opinion I concur.

4. I am therefore addressing the Foreign Office today a note of which the substance is as follows:

"Lest there be any misunderstanding let me make it clear that the interested American companies desire to proceed under that contract; and let me recall that on August 26th under special instructions from the Secretary of State I had the honor to address to Your Excellency a request for an early and definite statement whether the Chinese Government will without further delay give effect to the Federal contract, and, if so, what date may such action be expected. I beg now to reiterate that request."

5. I suggest substance of above be conveyed to Radio Corporation.

6. Copy mailed to Tokyo.

MACMURRAY

²⁵ *Infra.*

893.74/602 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 29, 1925—5 p. m.

[Received August 29—2:23 p. m.]

361. My telegram number 360, August 29, 4 p. m. Davis requests following message be transmitted to Radio Corporation:

"Energetic action by the American Minister doubtless has prevented, at least temporarily, cancellation of our contracts. The Minister received, August 28th, from the Chinese Government, a proposal as follows:

Wireless stations to be erected by China itself for direct communication abroad, the funds to be borrowed from two countries, the United States and Japan, and to be devoted to the exclusive use of erecting wireless stations and may not be transferred for other use; the principal and interest of such loans to be secured by the receipts of wireless station and to be repaid in annual installments.

During the period of construction [of] the wireless station the creditors to have the right to supervise the expenditure of the funds; during operation the creditors to have the right of auditing the receipts and expenditures. As to the selection of employees, the administration, and the operation of the stations, the management of each to be considered as lying within the sphere of the Government's jurisdiction, and to be entirely managed by China itself, the two countries, the United States and Japan, in compliance with the provisions of the first clause of the first article of the treaty ratified by the nine Washington Conference powers, respecting the spirit of China's sovereignty and independence,²⁶ and both parties refraining from interference.

As to the detailed articles, these are to await the settlement of the general agreement, China with the approval of American and Japanese companies to make appropriate revision of the principal and subdivision of contracts and annexes regarding the Hsuang Chiao wireless station concluded between the Ministry of the Navy and the Japanese company on February 21, and March 5, 1918, on wireless matters, and of the principal and subordinate contracts and annexes concluded between the Ministry of Communications and the American company on January 8th and September 19, 1921, and July 13, 1923.²⁷

You will perhaps believe that a proposal for us to lend China money to build wireless stations which Chinese are to manage pending payment of the debt does not furnish an acceptable basis to a revision of our existing contracts. The probable purpose of the proposal is to draw us into negotiations which will apparently justify China['s] executing the so-called provisional arrangement with the Japanese, referred to in the American Minister's cable August 22nd.

²⁶ *Foreign Relations, 1922*, vol. I, p. 276.

²⁷ See *List of Contracts of American Nationals With the Chinese Government*, etc., annex VIII.

Should we accept the principles of the proposals, negotiations for revision of our existing contracts probably would never be satisfactorily concluded, meanwhile the Japanese monopoly under the so-called provisional arrangement would continue indefinitely. We are continuing to press the Chinese Government for answer whether it intends to carry out our contracts. May we ask the American Minister on behalf of the Federal Company to reject this proposal, but in manner not to permit demagogues to assert we are trying to infringe China's sovereignty."

MACMURRAY

893.74/604 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 2, 1925—6 p. m.

[Received September 2—11:47 a. m.]

374. My 360, August 29, 4 p. m.

1. [Paraphrase.] I learn on what I consider reliable authority that my note was considered yesterday at an informal meeting of the interested Ministers with the Chief Executive. The Minister of Communications inquired whether he could go ahead with the American companies irrespective of the Japanese. The Chief Executive wavered and said that he would take the question under advisement. [End paraphrase.]

2. Japanese interests, presumably in view of our unwillingness to consider the Chinese proposal, have taken a lukewarm attitude towards it and have represented to the Ministry that the whole matter will in any case depend upon the result of discussions which the Japanese Government is about to open with the American Government.

3. The present danger is that the effect of our pressure upon the Chinese Government in the direct issue now joined with it will be dissipated by even an appearance that we have undertaken other negotiations with the Japanese. I therefore recommend that you take occasion to inform the Chinese Minister that notes which I presented by your direction to his Government on August 26th and 29th, call for a definite reply and corresponding action on the part of the Chinese Government; and that not until effect has been given to the Federal contract would you be willing to entertain any suggestions for the purpose of bringing about amicable accommodations of the several interests involved. Should you adopt this recommendation I should appreciate early notification of the action taken in pursuance thereof.

4. Copy mailed to Tokyo.

MACMURRAY

893.74/804 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, September 3, 1925—1 p. m.

231. Your 374, September 2, 6 p. m. Chinese Minister called on Secretary on September 1 and stated that he had received a message from his Government outlining proposal reported in your 360, August 29, 4 p. m. He stated that he had also been told that his Government had received a communication from you which it interpreted as meaning that the American Government would govern its interest in the forthcoming Special Conference on October 26, by the attitude which the Chinese Government would adopt toward the Federal Wireless contract. In the presence of the Chief of the Far Eastern Division the Secretary of State informed the Chinese Minister that the Chinese Government could hardly expect the American Government to take an active interest in the policy of the open door in China if the Chinese Government itself was not interested in that policy. The Chief of the Far Eastern Division in a subsequent conversation with the Chinese Minister on the same day under instructions from the Secretary, informed the Chinese Minister that he should not leave his Government in any doubt that you had the Secretary's full support in the attitude which you have taken with regard to the Federal Wireless contract. As regards proposal mentioned in your 360, he informed the Chinese Minister that the communication to the Chinese Foreign Office mentioned in paragraph 4 was approved by the Department. The Chief of the Far Eastern Division saw the Chinese Minister again on the afternoon of September 2 and again stated to him that he must not leave his Government in any doubt in this matter and that the communications which you have addressed to the Chinese Government require a definite reply. The Minister stated that he reported by telegraph to his Government on September 1 that the Secretary had informed him that he was very much disappointed with the attitude adopted by the Chinese Government particularly as China's action had a direct bearing upon the policy of the open door, as it indicated that China was failing to support this policy at the very time that it was appealing to the world for a release from conventional tariffs and the extraterritorial provisions of the treaties. As regards proposal, he stated that he had informed his Government that you had addressed a communication to the Chinese Foreign Office on August 29 which was supported by the Secretary of State.

GREW

893.74/607 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, September 12, 1925—5 p. m.

249. The Department has received a letter of September 3 from Harbord²⁸ acknowledging the receipt of pertinent parts of your telegram 349, August 25, 11 a. m., 356, August 27, 4 p. m.,²⁹ and 361, August 29, 5 p. m. The letter reviews somewhat incorrectly the relations of the Radio Corporation of America to the Federal Company's project and the general question of radio in China. Among other things Harbord writes in substance as follows:

In correspondence submitted to the Department and to the American delegation at the Washington Conference, Owen D. Young explained that the British, French, and Japanese radio interests were solicitous to have the Radio Corporation participate in a plan for wireless communication between China and foreign countries, including the United States; that it was the opinion of the Radio Corporation, based upon the success of a similar arrangement with respect to South America, that radio communication between China and this country would be served best by participation in some arrangement of that kind; but that because of the decision by the Department that radio communication between China and this country should be provided on the basis of the existing Federal project, the Radio Corporation informed its British, French, and Japanese associates that it could not go any further in an international arrangement.

Harbord's letter recounts such delays as expenses of the Radio Corporation in connection with the Federal project, the failure to deliver bonds, etc., as evidence that the corporation has not been lacking in loyalty to the position of our Government. In conclusion, either in anticipation that the reply of the Chinese Government to your latest representations will be definitely unfavorable or merely a promise that possibly there will be further negotiations, Harbord requests the Department to consider the desirability of giving the Radio Corporation liberty to make such arrangements with foreign associates as it can to assure American participation in the wireless communications of China, with the understanding that the Department will be kept fully informed of the progress of any negotiations and that the Radio Corporation will not enter into any arrangement which will involve unfair discrimination against other American interests.

²⁸ Gen. James G. Harbord, president of the Radio Corporation of America.

²⁹ Telegram No. 356 not printed.

In his letter Harbord does not mention the request of Davis, transmitted in your 356, August 27, 4 p. m., that Young communicate with the Mitsui Company. The first part of the letter indicates that the Radio Corporation objects to the Chinese proposal of August 28.

The Department is waiting for a report as to the results of your representations to the Chinese Foreign Office and Chief Executive before answering Harbord's letter.

KELLOGG

893.74/611 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 15, 1925—11 a. m.

[Received September 15—7:39 a. m.]

399. 1. Your telegram number 249, September 12, 5 p. m. appears to require immediate and categorical answer; greatly regret to report that if I were compelled to give a final answer at this moment it would have to be unfavorable.

2. Since early in August, I have been endeavoring, as my reports have indicated, to get serious consideration of this matter by the Chinese Government presenting clear issue whether or not the present administration is prepared to abide by its contractual obligations to American citizens and to cooperate loyally with the American Government in maintaining the principle of open door. My first conversations were with the Minister for Foreign Affairs who apparently does not understand what is involved and has consistently sought to put me off with meaningless assurances amounting to what is termed in your telegram "a promise of possibility of further negotiations." On August 24th I saw the Chief Executive who assured me that the contract was recognized as valid and would be put into effect but in view of "obstacles" to which he referred would make no commitment as to when that would be done. In notes addressed to the Foreign Office August 26th and 29th under your instructions I urged the importance of this Government's informing me definitely whether it would give effect to the contract and if so when. In a supplementary note September 7th I pointed out that my Government regards these questions as urgent; and on September 11th I again emphasized urgency of a decision. I have thus far received no reply to my notes and no indication whatsoever from any responsible source as to what attitude this administration may be prepared to take regarding its obligations towards our citizens and towards our Government and its policies.

3. In the hope that the administration may even yet be made conscious of its responsibilities and of its interest in this matter, I shall nevertheless continue my efforts and trust that you may be able allow some few days longer before accepting as definitive and conclusive the failure of the Chinese Government to deal with this matter in good faith.

4. Copy by mail to Tokio.

MACMURRAY

893.74/611 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, September 15, 1925—7 p. m.

255. Your 399, September 15, 11 a. m. Department is acknowledging letter of Radio Corporation with statement that request is receiving careful consideration: meanwhile, Department is most anxious that you continue to impress upon the Chinese Government with all means at your disposal the growing importance the Government of the United States attaches to this opportunity, which culminating circumstances have now created, for the Chinese Government to demonstrate, unequivocally, its good faith both specifically and as a matter of principle in the larger (and at the present time peculiarly significant) question involved.

KELLOGG

893.74/612 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 18, 1925—noon.

[Received 2:50 p. m.]

404. Your telegram number 255, September 15, 7 p. m.

1. I have arranged for a further interview Monday morning with the Chief Executive with a view to urging not so much a decision favorable to the Federal project as a prompt answer in either sense that will enable you to judge whether in the forthcoming Special Conference we have to deal with a China that is with us or against us on the fundamental question of the open-door policy. This is become necessary because, although the pressure upon the Chief Executive and his advisers had apparently induced them to decide that the Federal contract must be carried out, the Minister for Foreign Affairs has been able to persuade his colleagues of his belief that insistence of our Government is a mere bluff, and that the issue may be indefinitely evaded.

2. The Chinese are prone to discount, out of the abundance of their experience with various foreign diplomatic representatives, the reality of representations made to them in the name of the several governments. I feel the present matter is too vital to be left to chance of such misapprehension . . .

3. [Paraphrase.] I should like to suggest, if I may, that a message from President Coolidge to Chief Executive Tuan be drafted and cabled to me for delivery September 21 asking whether it is not the intention of the Government of China to fulfill the obligations of its contracts with American interests and to give loyal cooperation to the American Government in realizing in practice the open-door policy for which purpose the Chinese Government sought our cooperation in 1921, and that the Chinese Minister at Washington be handed a copy of the message for communication to his Government. [End paraphrase.]

4. There is a tendency on the part of the Chinese to make it appear that we are trying to profit by the Special Conference to extort from them particular advantages. I have taken occasion to explain to such officials as have hinted this to me that we are not seeking any concession but merely applying a test of the good faith of the Chinese Government in carrying out obligations to American commercial interests and to our Government assumed more than four years ago; and that the question presents itself to us not as a matter of bargaining but as a means of determining whether and to what extent the facts of the situation would warrant us in adopting policy more favorable to Chinese aspirations than the actual terms of the treaty obligations that we have undertaken and which we will, of course, fulfill.

5. Copy by mail to Tokio.

MACMURRAY

893.74/612 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, September 19, 1925—11 a. m.

258. Your 404, September 18, noon. I desire you to have an interview with the Chief Executive and urge him to recognize the contract with the Federal Wireless. I cannot understand why the United States, which has been and is today the friend of China, should be discriminated against in favor of all other countries. If the Chief Executive does not intend to maintain the open-door policy for which we contend, let us have an answer at the earliest date possible. We shall then know where we stand on this matter.

KELLOGG

893.74/612 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, September 19, 1925—2 p. m.

260. Legation's telegram 404, September 18, noon. I have just sent you a very strong telegram regarding Federal Telegraph Company's contract. I do not believe it would be wise to have the President send a personal message on this matter to the Chinese Chief Executive. It is not my desire to have our general policy in China depend upon the fulfillment by China of this particular contract. Our position might be very seriously prejudiced should Tuan publish such a telegram from President Coolidge. I want to have a free hand at the conference in dealing with China and not to be bound by any bargain depending upon concessions. I am sending today for the Chinese Minister and telling him that you are to call upon the Chief Executive with my approval in an effort to obtain a definite answer regarding the contract.

KELLOGG

893.74/613 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, September 21, 1925—4 p. m.

[Received September 21—3:33 p. m.]

405. Your telegram 258 of September 19, 11 a. m.

1. The Chief Executive assured me this morning in an interview that the Federal Telegraph Company's contract will be carried out and that whole-hearted support will be given by China to the open-door policy which China considers necessary to its own interests. Tuan also stated that his Government is most anxious not to have any one nationality control its wireless communication.

2. Tuan was surprisingly frank in speaking of China's weakness and of the difficulties which could be created by Japan, especially in Manchuria, if China should antagonize the Japanese on a question which he said they had presented to him as a life and death matter because of fear that the more powerful wireless station to be built at Shanghai would be able through interference to dominate Japan's system of naval radio communications.

3. Tuan requested earnestly that we allay the apprehensions of the Japanese by agreeing to tripartite discussions. I insisted that we

would not be in a position to take part on a satisfactory basis in any discussions with Japan until our interests had been placed on an equal footing with Japanese interests and until the Chinese Government had proven its willingness to act according to its obligations in this matter. Tuan then inquired whether I would be willing to give assurance that after the Federal contract had been put into effect we would be ready to discuss a mutual accommodation of interests between the Federal and Mitsui Companies. I had conveyed this very assurance to him in a conversation a month ago and I told him at once that I was ready to renew the assurance on behalf of both our Government and the American interests concerned and that we would be prepared at that time to deal with the question on a most generous and friendly basis.

4. Tuan took this as a concession by us which would remove to a great extent his difficulties in dealing with the Japanese. He intimated that if I would agree to put it in writing he would consult with the Ministers of Communications and Foreign Affairs tomorrow morning with a view to having the Federal wireless contract put into effect.

5. I told Tuan that I would be quite prepared to arrange an exchange of notes with the Minister of Foreign Affairs by which he would give a favorable reply to my repeated inquiries as to whether the Federal contract is to be put into effect; and in acknowledgment I would write that the American interests, with the sympathetic approval of our Government, would be ready, after the necessary steps had been taken to make the contract effective, to enter into discussions with Mitsui Company representatives and the Chinese Ministry of Communications in order to reach an accommodation of their respective interests in the hope that effective business arrangements would be made which would be fair and profitable to all interested parties.

6. Tuan urged that for the time being the matter should be treated as absolutely confidential save for the discussions which would be necessary with the local representatives of the Federal wireless interests. His reason for keeping the matter confidential was evidently the desire to avoid antagonisms which premature publicity might arouse.

7. I shall inform you at once of any definite developments resulting from the assurances which Tuan gave me.

8. I am mailing to Tokyo copy of this telegram.

MACMURRAY

893.74/613 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, September 22, 1925—5 p. m.

263. Legation's telegram 405, September 21, 4 p. m. An Associated Press report from Tokyo dated September 22, stated that the Japanese Ambassador at Washington had been instructed to enter into conversations with the Secretary of State with respect to the Chinese wireless situation with the expectation that a compromise between the United States and Japan will be reached which will satisfy all parties. As the Department understands it the arrangements referred to in your 405, September 21, paragraph 3, are not to be begun until the contract with the Radio Corporation has been confirmed and put into effect. The Department has heard nothing as yet from the Japanese Embassy, but if the Japanese Ambassador makes inquiries it is my intention to inform him that I am waiting to learn the results of the negotiations which you are now conducting at Peking. Department wishes that question of traffic arrangements be a matter for negotiation not between the American and Japanese Governments but between the companies concerned.

KELLOGG

893.74/617 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 29, 1925—5 p. m.

[Received September 29—11:05 a. m.]

422. Following for Radio Corporation for [from] Davis:

"Modified agreement containing clarification paragraphs will possibly be signed soon, the American Government agreeing that when our contracts are in course of performance we will meet Chinese and Japanese to discuss an arrangement for cooperation. Contracts will be deemed in course of performance when modified agreement is signed and delivered, when orders are issued to Chinese Minister at Washington to sign and when necessary orders are issued to enable us to come into possession of lands for Shanghai stations. Sze's absence may delay actual delivery, hence Chinese request that we do not refuse to meet Japanese until bonds actually in hand. Cooperation should be possible by applying following principles: separate managements, division of gross receipts on fair basis, apportionment of wireless stations of world as correspondents, and periodic correction of apportionment. Have informed Lucas. I am without

authority to enter such negotiations and could not conclude them without assistance of engineering and traffic expert. Will Federal Company be prepared, on short notice, to authorize me to enter such negotiations, or to select another purpose [*person?*], and to send Reoch or another expert? These negotiations may help us through by giving face to both Japanese and Chinese."

MACMURRAY

893.74/622 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, October 5, 1925—11 a. m.

[Received 3:10 p. m.]

426. My telegram No. 421, September 26, 8 p. m.⁸⁰

1. After two weeks of discussion with the Minister for Foreign Affairs, . . . during which the representatives of the interested American companies have made what they consider the utmost possible concessions, it has now been agreed that subject to possible verbal alterations, the Minister for Foreign Affairs will address to me a note informing me that "the Chinese Government has the intention to carry (Federal contract) into effect at the earliest moment," and at the same time expressing the earnest hope that the representatives of the American companies concerned will discuss with the Chinese and Japanese "a fundamentally fair and achieving solution." I am to reply taking note of the intention of the Chinese Government to carry the contract into effect at the earliest moment and continuing: "I note also the expression of the earnest hope on the part of the Chinese Government that discussions may be had among the several parties in interest. In this connection I am happy to confirm in behalf of the American companies concerned, and with the sympathetic approbation of the American Government, the assurance which I have hitherto given to His Excellency the Chief Executive, in response to his views, that when the first steps in carrying out the contract have been taken, the representatives of the American companies will hold discussions forthwith in the most friendly and generous spirit with the appropriate authorities of the Chinese Government, and with the representatives of the Japanese interests involved in wireless communications in China, in order to arrive at an [apparent omission] of their several business interests on a basis fundamentally fair and beneficial to all parties concerned." This interchange of notes is to be accompanied by a *procès-verbal*, to be initialed by the Chinese Secretary and the Secretary of the Foreign Office, recording that I interpreted the phrase "first

⁸⁰ Not printed.

steps in carrying out the contract" as implying, first, the execution and delivery of the revised contract; second, the issuance of instructions to the Chinese Legation at Washington to execute and deliver the bonds to the American company at the earliest moment; and third, the issuance of instructions to the local authorities (at Shanghai) "to take steps at the earliest moment in order that the company may take possession of the land necessary for the construction of the main station" and that the Foreign Minister concurred in this explanation.

2. As soon as we had reached an agreement in principle on these documents the Minister for Foreign Affairs said that in consideration of his having done this much for our interests he felt warranted in asking me for a definite statement of our Government's attitude in regard to the forthcoming conference. I told him that the exchange of these documents did not in itself place us under any obligations and that I wished to make this clear to him in order that he might if necessary reconsider the matter before making the exchange. I recalled that the proposed documents call upon Chinese Government to do nothing new—in fact placed some conditions and qualifications upon what the Chinese Government was already definitely obligated to do; and that it was simply a matter of bringing about the fulfillment by that Government of obligations whose non-fulfillment had led us to doubt the willingness or ability of the Chinese Government to live up to the further duties which it would naturally have to assume in connection with aspirations which it is seeking to realize at the conference. I added that in this aspect of matter the making of a new promise was a hopeful indication of desire of the Chinese to keep faith with us, but that of course their performance of the obligations thus newly undertaken would afford a measure of the confidence with which we may feel warranted in dealing with them in the conference.

[3?] He then urged that this new evidence of Chinese good will ought at least to be a basis for our discussing and considering frankly with the Chinese authorities the program of the conference, and he outlined in very general terms the program in view. Upon his asking for my comment on it I stated that it was impossible for me to form an opinion of a general program without any details making possible judgment as to the practicability of its various items and said that I would of course be glad to receive from the Chinese experts detailed explanations of their proposals but that until such details had been considered by my Government and by the delegation it would manifestly be impossible to give more than a general assurance of our good will and desire to be of help to China.

4. He indicated some disappointment that unwillingness to make a more definite commitment as to our attitude on the general program or on the particular item of "tariff autonomy."

It is entirely possible that failing to receive from us some new consideration for the observance of our existing rights the Chinese Government may even yet refuse to proceed with the proposed interchange of notes.

5. Not repeated to Tokyo.

MACMURRAY

893.74/623 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase—Extract]

PEKING, October 8, 1925—11 p. m.

[Received October 8—4:35 p. m.]

430. My 426, October 5, 11 a. m.

1. This evening notes were exchanged and the *procès-verbal* was initialed. These were outlined in telegram under reference. The Chinese note is dated October 6.

.

MACMURRAY

893.74/627

*The Japanese Embassy to the Department of State*⁸¹

(1) The Japanese Government are gratified to note that the proposals contained in the memorandum of the Waichiaopu dated August 28, 1925⁸² for the adjustment of the question of wireless telegraphy in China are in substantial agreement with the plan suggested in the Memoranda of the Japanese Embassy at Washington, dated December 24, and June 1, 1925, copies of which have been communicated to the Chinese Government. The memorandum of the Waichiaopu under examination contemplates the naturalization of all high power radio stations in China. It intimates that such stations are to be established with proceeds of foreign loans to be raised for that purpose, but that, upon completion, they shall be placed under the exclusive control and administration of the Chinese

⁸¹ Handed to the Secretary by the Japanese Ambassador, Oct. 9, 1925. This paper bears the annotation: "English translation of the reply of the Japanese Government to the Memorandum of the Wai-Chiao-Pu dated Aug. 28, 1925."

⁸² See telegrams Nos. 360 and 361, Aug. 29, from the Minister in China, pp. 919 and 920.

Government. It is precisely in support of this line of policy that the Japanese Government have suggested to the American Government that the two sets of contracts now held respectively by the Mitsui Bussan Kaisha and the Federal Telegraph Company be amalgamated into a new and comprehensive loan agreement with the participation of American, British, French and Japanese radio interests, and that all features of foreign control or monopoly be excluded from such a loan agreement.

(2) By the terms of the Waichiaopu's memorandum it appears that China has in view the construction of certain new stations for external communication, in addition to the one recently constructed by the Mitsui Company near Peking and it is proposed that a loan to be raised to cover the cost of construction of these stations shall be secured on the revenue of such establishments and redeemed in annual instalments. The memorandum does not specify when and where these additional stations are to be set up. In any case, it seems quite obvious that any further station which may be established at present or in the near future can not reasonably be expected to yield a sufficient amount of revenue to meet China's indebtedness under the proposed loan. Nor is such an extensive programme believed to be reconcilable with the avowed policy of the Chinese Government to effect the financial retrenchment urgently called for in the best interests of the nation. Its un wisdom will appear all the more striking, when it is considered that on the whole Pacific Coast of the United States, with its immense volume of trade, there is only one trans-oceanic radio station open for public use. Accordingly, it is presumed to be the intention of the Chinese Government to reserve the plan of constructing any additional high power stations, until the commercial and industrial condition of the country shall warrant such an undertaking. The Japanese Government confidently hope that this presumption will be confirmed by the Chinese Government.

(3) The only difference of any importance between the Japanese and Chinese proposals is thus reduced to the question as to whether British and French radio interests, besides Japanese and American, shall be invited to participate in the new loan agreement in which the existing contracts of the Mitsui and of the Federal are to be merged. The Japanese Government hold to the belief that it is highly desirable, for the promotion of international good understanding, no less than for the development of China's own radio enterprise, to enlist the friendly co-operation of British and French interests.

The fairness of the claim of these two nations to participate in the proposed arrangement must be admitted, while their support is certainly required in order to secure the satisfactory working of Chinese radio enterprise in its relation with Europe. It need hardly

be pointed out that the co-operation of the four-Power radio interests on the lines indicated can not, in any sense, be taken as a measure implying any degree of international control, or international administration, of wireless telegraphy in China, which is as strongly deprecated by the Japanese Government as by the Chinese Government.

(4) Should the foregoing observations meet the approval of China, the Japanese Government, on their part, will be happy to do whatever lies in their power, in co-operation with the Chinese Government, to expedite a solution of the long pending difficulty.

Being satisfied that it is not so much a question of principle as of detail which separates the Japanese and Chinese proposals under review, the Japanese Government are encouraged in the hope that a fair and speedy adjustment could be arrived at, if the same basic principle now found acceptable to both Governments will commend itself equally to a favourable reception on the part of the American Government.

893.74/628

The Japanese Embassy to the Department of State ³³

The American Government appears to be under the apprehension that the Japanese proposal embodied in the memorandum of the Japanese Embassy, Washington, dated December 24th, 1924, may not commend itself to the Chinese Government. An examination, however, of the Chinese proposal recently made to the United States and Japan shows that the Chinese Government has as its aim to manage and work on its own account the Chinese radio stations to be established with foreign loans, and that the main purpose of the Chinese proposal is in substantial agreement with that of the Japanese proposal. It is thus believed to mark a step forward toward the adjustment of the question of wireless telegraphy in China. In these circumstances, it is most earnestly hoped that this long pending controversy may speedily be settled on the basis of the Japanese proposal above alluded to.

With this hope in view, the Japanese Government ventures to suggest again that as set forth in the last paragraph of the Memorandum of the Japanese Embassy, Washington, dated June 1st, 1925, the Japanese proposal be submitted to a meeting of representatives of the radio interests of the various countries concerned to be examined and reported as to its feasibility.

³³ Handed to the Secretary by the Japanese Ambassador, Oct. 9, 1925.

893.74/646 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 29, 1925—10 a. m.

[Received December 29—5:06 a. m.]

550. 1. Your 345, December 23, 2 p. m.⁸⁴ Minister of Communication[s] Yeh left Peking on October 24th and Vice Minister Cheng on November 10th, and have not returned. Minister of Interior Kung was appointed on November 28th concurrently Acting Minister of Communication[s]; but because of the above circumstances and political instability I have been unable to move the Ministry of Communications to initiate negotiations with Davis for modification of contract. Davis has been in constant touch with Director General of Telegraphs who advised against negotiating with the Acting Minister, consequently there has been no progress since exchange of note[s] of October 6th and 8th—See my 430, October 8, 8 [11] p. m., paragraph 1.

2. Appointment of a substantive Minister of Communications seems imminent and I will seize early opportunity to reopen matter with him.

MACMURRAY

EXECUTIVE ORDER BY PRESIDENT COOLIDGE REMITTING FURTHER PAYMENTS BY CHINA ON THE BOXER INDEMNITY *

493.11/1168

Executive Order No. 4268, July 16, 1925, Providing for the Remission of Further Payments of the Annual Installments of the Chinese Indemnity

WHEREAS, a Joint Resolution of Congress, entitled a "Joint Resolution to provide for the remission of further payments of the annual installments of the Chinese indemnity", approved May 21, 1924, provides as follows:

"Whereas by authority of a joint resolution of Congress approved May 25, 1908,⁸⁵ the President of the United States was authorized to remit unto China the sum of \$11,961,121.76 of the Boxer indemnity fund accredited to the United States, which sum the President on December 28, 1908, duly remitted and which, at the request of China, was specified to be used for educational purposes; and

Whereas it is deemed proper as a further act of friendship to remit the balance of said indemnity fund amounting to \$6,137,552.90

⁸⁴ Not printed.⁸⁵ For previous correspondence concerning the remission of the Boxer Indemnity, see *Foreign Relations*, 1924, vol. 1, pp. 551 ff.⁸⁶ *Ibid.*, 1908, p. 65.

in order further to develop the educational and other cultural activities of China: Now therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized, in his discretion, to remit to China as an act of friendship any or all further payments of the annual installments of the Chinese indemnity due under the bond received from China pursuant to the protocol of September 7, 1901,³⁷ as modified by Executive order on the 28th day of December, 1908,³⁸ pursuant to the authority of the joint resolution of Congress approved May 25, 1908, for indemnity against losses and expenses incurred by reason of the so-called Boxer disturbances in China during the year 1900, such remission to begin as from October 1, 1917, and to be at such times and in such manner as the President shall deem just.”; and

WHEREAS, the Minister of the Republic of China at Washington, to whom a copy of the said Joint Resolution was transmitted by the Secretary of State, informed the Secretary of State on June 14, 1924,³⁹ that his Government proposed to devote the funds thus made available to educational and cultural purposes, paying especial attention to scientific requirements, and to entrust the administration of the funds to a Board which should be composed of Chinese and American citizens as members; and

WHEREAS, the Minister of the Republic of China on September 16, 1924, forwarded to the Secretary of State a copy of the constitution of the Board⁴⁰ referred to in his communication of June 14, 1924, above mentioned, which Board, he stated, had been designated “The China Foundation for the Promotion of Education and Culture”; and

WHEREAS, the Minister of the Republic of China on June 6, 1925, informed the Secretary of State⁴¹ (1) that the Board of Trustees of the China Foundation for the Promotion of Education and Culture was a corporate body instituted by a Mandate of the President of the Republic of China on September 17, 1924, for the custody and control of the remitted indemnity funds; (2) that on June 3, 1925, the said Board had unanimously adopted a resolution reading textually as follows: “Resolved that the funds from the remitted portion of the indemnity due the United States to be intrusted to the China Foundation for the Promotion of Education and Culture be devoted to the development of scientific knowledge and to the application of such knowledge to the conditions in China through the promotion of technical training of scientific research, experimentation, and demonstration, and training in science teaching, and to the advance-

³⁷ *Foreign Relations*, 1901, appendix (Affairs in China), p. 312.

³⁸ *Ibid.*, 1908, p. 72.

³⁹ *Ibid.*, 1924, vol. I, p. 555.

⁴⁰ Not printed.

⁴¹ Note of June 6, 1925, not printed.

ment of cultural enterprises of a permanent character such as libraries and the like"; and (3) that, in order to carry out the intent of the Joint Resolution of Congress, the Board was ready to receive the remitted funds from the United States Government.

Now, therefore, I, Calvin Coolidge, President of the United States of America, acting under and by virtue of the authority conferred upon me by the said Joint Resolution of Congress, do hereby make the following determination, order, rule and regulation:

The Secretary of the Treasury is hereby authorized and directed to remit to the said Board of Trustees of the China Foundation for the Promotion of Education and Culture, as the agent designated by the Chinese Government to receive the same, all payments of the annual installments of the Chinese indemnity made subsequent to October 1, 1917, under the bond received from China pursuant to the protocol of September 7, 1901, as modified by Executive Order on the 28th day of December, 1908, pursuant to the authority of the Joint Resolution of Congress, approved May 25, 1908, together with such further payments as may be made from time to time under the said bond, the remission of the payments to be for the purpose of further developing the educational and other cultural activities of China.

CALVIN COOLIDGE

THE WHITE HOUSE,
July 16, 1925.

COLOMBIA

BOUNDARY DISPUTE WITH NICARAGUA

(See pages 431 ff.)

BOUNDARY DISPUTE WITH PERU

(See pages 436 ff.)

COSTA RICA
BOUNDARY DISPUTE WITH PANAMA
(See pages 471 ff.)

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